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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

Introduced By: Senators McKenney, Sosnowski, Britto, Vargas, Gu, Murray, and Urso

Date Introduced: March 13, 2026

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-17.1 of the General Laws entitled "Department of Environmental
2 Management" is hereby amended by adding thereto the following sections:

3 **42-17.1-1.1. Definitions.**

4 For the purpose of this chapter:

5 (1) "Bureau" means the bureau of coastal resources management within the department of
6 environmental management.

7 (2) "Community advisory board" means the advisory board established pursuant to § 42-
8 17.1-6.1.

9 (3) "Department" means the department of environmental management.

10 (4) "Director" means the director of the department of environmental management or the
11 director's duly authorized agent.

12 (5) "Environmental justice focus area" means a census tract that meets one or more of the
13 following criteria:

14 (i) Annual median household income is not more than sixty-five percent (65%) of the
15 statewide annual median household income;

16 (ii) The population of minorities, as defined by § 37-14.1-3, is equal to or greater than forty
17 percent (40%) of the population;

18 (iii) Twenty-five percent (25%) or more of the households lack English language

1 proficiency; or

2 (iv) Minorities, as defined by § 37-14.1-3, comprise twenty-five percent (25%) or more of
3 the population and the annual median household income of the municipality in the proposed area
4 does not exceed one hundred fifty percent (150%) of the statewide annual median household
5 income.

6 **42-17.1-5.1. Bureau of coastal resources management -- deputy director.**

7 (a) Within the bureau of coastal resources management there shall be a deputy director who
8 shall be in the unclassified service and report to the director and who shall:

9 (1) Collaborate with the director to execute all powers, duties and functions for coastal
10 resources management;

11 (2) Prepare an annual budget to address the needs of coastal resources management
12 programs; and

13 (3) Subject to the authority of the director, exercise all powers, duties and functions
14 previously vested in, administered by and/or executed by the coastal resources management
15 council, its executive director, and/or staff.

16 **42-17.1-6.1. Community advisory board.**

17 (a) There is hereby established a community advisory board within the bureau of coastal
18 resources management, which is to work at the direction of the director to advise the director and
19 the bureau regarding policy initiatives and program improvements.

20 (1) The community advisory board shall consist of six (6) appointed or elected members
21 of local government and four (4) members of the public, all appointed by the governor with the
22 advice and consent of the senate.

23 (i) The community advisory board shall consist of the following members of local
24 government: Three (3) appointed or elected officials in a municipality of fewer than twenty-five
25 thousand (25,000) in population according to the most recent census; and three (3) appointed or
26 elected officials in a municipality of more than twenty-five thousand (25,000) in population
27 according to the most recent census; provided, of the six (6) members who shall be appointed or
28 elected local government officials, three (3) members shall be appointed or elected officials of a
29 coastal community, and one member shall be an appointed or elected official in Washington county
30 or Newport county. Further, the governor shall specify to the senate the appointed or elected office
31 that each municipal appointment holds, the population of the municipality represented, and the
32 member being appointed or replaced.

33 (ii) The community advisory board shall consist of the following public members: Four (4)
34 members of the public with due consideration given to appointing persons with expertise in coastal

1 policy and/or residing in or representing indigenous and/or environmental justice focus areas;
2 provided, two (2) members shall reside in a coastal community.

3 (2) The community advisory board shall schedule and hold public meetings with prior
4 written notice at least twice annually.

5 (3) Elected or appointed local government officials shall hold their seats on the community
6 advisory board for only so long as they remain in their elected or appointed office. Each municipal
7 appointment shall cease if the appointed or elected official shall no longer hold or change the office
8 which they held upon appointment.

9 (4) All members of the community advisory board shall serve until their successors are
10 appointed and qualified. Annually in January, the governor shall appoint, with the advice and
11 consent of the senate, a member to succeed the members whose terms shall then next expire for a
12 term of three (3) years commencing on the first day of February next following and until their
13 successor is named and qualified. A member shall be eligible for successive appointments. A
14 vacancy other than by expiration shall be filled in the manner of the original appointment but only
15 for the unexpired portion of the term.

16 (5) If the governor fails to make an appointment or fill an existing vacancy as provided in
17 this section, the director shall make such appointment in accordance with this section and for the
18 same terms specified in this section within thirty (30) days, but without advice and consent of the
19 senate.

20 (6) The members of the community advisory board shall receive no compensation.

21 (7) The director or designee shall serve ex officio as chairperson of the community advisory
22 board. The community advisory board shall annually elect the vice-chairperson and secretary.

23 SECTION 2. Section 42-17.1-4 of the General Laws in Chapter 42-17.1 entitled
24 "Department of Environmental Management" is hereby amended to read as follows:

25 **42-17.1-4. Divisions within department.**

26 Within the department of environmental management there are established the following
27 divisions:

28 (1) A division of parks and recreation that shall carry out those functions of the department
29 relating to the operation and maintenance of parks and recreation areas and the establishment and
30 maintenance of such additional recreation areas as may from time to time be acquired and such
31 other functions and duties as may, from time to time, be assigned by the director;

32 (2) A division of fish and wildlife management that shall carry out those functions of the
33 department relating to the administration and management of hunting and freshwater fishing; the
34 preservation of wetlands, marsh lands, freshwater lakes, streams, ponds, and wildlife; and such

1 other related functions and duties as may be assigned by the director;

2 (3) A division of agriculture that shall carry out those functions of the department relating
3 to agriculture, and such other functions and duties as may from time to time be assigned by the
4 director, including, but not limited to, plant industry, farm viability, marketing and promotion,
5 farmland ecology and protection, plant and animal health and quarantine, pesticides, mosquito
6 abatement, pest survey and response, food policy and security, and, in collaboration with the
7 department of health, public health as it relates to farm production and direct marketing of farm
8 products, and those agreed upon through memorandum of agreement with the department of health
9 or other state agencies. The department of health shall continue to act as the lead agency for all
10 public health issues in the state pursuant to chapter 1 of title 23. Nothing herein contained shall
11 limit the department of health's statutory authority, nor shall any provision herein be construed as
12 a limitation upon the statutory authority of the department of health granted to the department under
13 title 23, nor shall any provision herein be construed to limit the authority of the department of
14 environmental management to enter into memoranda of agreement with any governmental agency.
15 The chief of the division of agriculture shall report directly to the director;

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

26 (ii) There is established the bureau of coastal resources management within the department.
27 Notwithstanding any provision of law to the contrary, all powers, duties and functions previously
28 vested in, and/or administered by and/or executed by the coastal resources management council, its
29 executive director and/or staff including, but not limited to, those powers and duties in chapter 23
30 of title 46 entitled ("coastal resources management council") are hereby transferred to the
31 department and shall be exercised by the bureau of coastal resources management. All general laws
32 governing the powers, duties, and functions vested in, administered by, or executed by the
33 department shall be applicable to the bureau including, but not limited to, those provided for in
34 chapter 17.1 of title 42 entitled ("department of environmental management"); chapter 17.6 of title

1 42 entitled ("administrative penalties for environmental violations"); and chapter 17.7 of title 42
2 entitled ("administrative adjudication for environmental matters").

3 (iii) Except as provided in this chapter, all existing duly promulgated regulations, guidance,
4 policies, and special area management plans of the coastal resources management council shall
5 continue in validity and enforceability by the department. Further, all prior actions of the coastal
6 resources management council including, but not limited to, the issuance of determinations,
7 permits, assents, licenses, enforcement actions, federal consistency determinations, and
8 certifications shall be considered valid and enforceable by the department.

9 (iv) All state and federal funds appropriated, allocated or transferred by the general
10 assembly and/or any federal agency to the coastal resources management council or its executive
11 director or staff including, but not limited to, all state, federal and local funds received, appropriated
12 or allocated to or by the coastal resources management council are hereby transferred to and shall
13 be administered by the department for the purposes conditioned by the receipt of such funds.

14 (v) All references in the general laws to the coastal resources management council
15 including, but not limited to, "coastal resources management council," "council," "subcommittees,"
16 "commissioner," "chairperson," "executive director," "council staff" its board, members, director,
17 and staff, shall hereafter refer to the department.

18 (vi)(A) Notwithstanding any law to the contrary, and upon the effective date of this section,
19 all employees of the coastal resources management council shall be considered employees of the
20 department and retain civil service status, title, rate of pay and benefits. The director may engage
21 additional staff as the director deems necessary to carry out the department's duties.

22 (B) There is hereby created the position(s) of staff attorney(s) for the bureau. The director
23 shall hire at least one full-time staff attorney consistent with this section. The staff attorney(s) shall
24 serve in the unclassified service.

25 (vii) Within ninety (90) business days of the date of passage of this act, the department
26 shall put out for notice and comment revisions of its coastal resources management program
27 (referred to as "red book") and management procedures in order to implement the programmatic
28 change from the council to the department. Within seven (7) days of promulgation of the revised
29 coastal resources management program (referred to as "red book") and management procedures,
30 the department shall submit a coastal zone management act program change request to the National
31 Oceanic and Atmospheric Administration (NOAA) for its approval of the amendments to this
32 statute and corresponding changes to the Rhode Island coastal resources management program.
33 This section shall take effect upon NOAA's approval

34 (5) A division of planning and development that shall carry out those functions of the

1 department relating to planning, programming, acquisition of land, engineering studies, and such
2 other studies, as the director may direct, and that shall work with the Rhode Island board of
3 education, with educational institutions at all levels, and with the public in the dissemination of
4 information and education relating to natural resources, and shall perform the publication and
5 public relations functions of the department, the functions of inspection of dams and reservoirs,
6 approving plans for construction or improvement of dams, reservoirs, and other structures in non-
7 tidal waters, and the operation of stream-gauging stations in cooperation with the United States
8 Geological Survey;

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

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

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

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

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

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

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

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

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

34 (IV) To arrest without warrant and on view any person found violating any law, rule, or

1 regulation relating to the act; take that person before a court having jurisdiction for trial; detain that
2 person in custody at the expense of the state until arraignment; and to make and execute complaints
3 within any district to the justice or clerk of the court against any person for any of the offenses
4 enumerated under the act committed within the district.

5 (V) Boating safety enforcement officers shall not be required to give surety for costs upon
6 any complaint made by them.

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

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

11 (v) The state boating law administrator shall serve as the liaison to the United States Coast
12 Guard; and

13 (9) A division of marine fisheries management that shall carry out those functions of the
14 department relating to the administration, management, and harvest of marine animal and plant
15 species found in Rhode Island marine waters, including, but not limited to: stock assessments of
16 marine species; harvest of marine species regulated under a regional federal fisheries management
17 plan; the review of aquaculture applications before the CRMC; a commercial fishing licensing
18 program; fixing seasons, bag limits, size limits, possession limits, and methods of taking on any
19 marine plant and animal species; and such other related functions and duties as may be assigned by
20 the director.

21 SECTION 3. Sections 46-23-1, 46-23-6, 46-23-6.1, 46-23-6.2, 46-23-7, 46-23-7.1, 46-23-
22 7.2, 46-23-7.4, 46-23-7.5, 46-23-8, 46-23-9, 46-23-10, 46-23-13, 46-23-14, 46-23-15, 46-23-15.1,
23 46-23-16, 46-23-18, 46-23-18.1, 46-23-18.2, 46-23-18.3, 46-23-18.4, 46-23-18.5, 46-23-18.6, 46-
24 23-20, 46-23-21, 46-23-22, 46-23-23, 46-23-24 and 46-23-25 of the General Laws in Chapter 46-
25 23 entitled "Coastal Resources Management Council" are hereby amended to read as follows:

26 **46-23-1. Legislative findings.**

27 (a)(1) Under article 1, § 17 of the Rhode Island Constitution, the people shall continue to
28 enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they
29 have been heretofore entitled under the charter and usages of this state, including, but not limited
30 to, fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and
31 passage along the shore; and they shall be secure in their rights to use and enjoyment of the natural
32 resources of the state with due regard for the preservation of their values; and it is the duty of the
33 general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and
34 other natural resources of the state, and to adopt all means necessary and proper by law to protect

1 the natural environment of the people of the state by providing adequate resource planning for the
2 control and regulation of the use of the natural resources of the state and for the preservation,
3 regeneration, and restoration of the natural environment of the state.

4 (2) The general assembly recognizes and declares that the coastal resources of Rhode
5 Island, a rich variety of natural, commercial, industrial, recreational, and aesthetic assets, are of
6 immediate and potential value to the present and future development of this state; that unplanned
7 or poorly planned development of this basic natural environment has already damaged or destroyed,
8 or has the potential of damaging or destroying, the state's coastal resources, and has restricted the
9 most efficient and beneficial utilization of these resources; that it shall be the policy of this state to
10 preserve, protect, develop, and, where possible, restore the coastal resources of the state for this
11 and succeeding generations through comprehensive and coordinated long range planning and
12 management designed to produce the maximum benefit for society from these coastal resources;
13 and that preservation and restoration of ecological systems shall be the primary guiding principle
14 upon which environmental alteration of coastal resources will be measured, judged, and regulated.

15 (b)(1) That effective implementation of these policies is essential to the social and
16 economic well-being of the people of Rhode Island because the sea and its adjacent lands are major
17 sources of food and public recreation, because these resources are used by and for industry,
18 transportation, waste disposal, and other purposes, and because the demands made on these
19 resources are increasing in number, magnitude, and complexity; and that these policies are
20 necessary to protect the public health, safety, and general welfare. Pursuant to 16 U.S.C. § 1452
21 ("The Coastal Zone Management Act"), the general assembly hereby directs the ~~council (referred~~
22 ~~to as "CRMC")~~ [department](#) to exercise effectively its responsibilities in the coastal zone through
23 the development and implementation of management programs to achieve wise use of the land and
24 water resources of the coastal zone.

25 (2) Furthermore, that implementation of these policies is necessary in order to secure the
26 rights of the people of Rhode Island to the use and enjoyment of the natural resources of the state
27 with due regard for the preservation of their values, and in order to allow the general assembly to
28 fulfill its duty to provide for the conservation of the air, land, water, plant, animal, mineral, and
29 other natural resources of the state, and to adopt all means necessary and proper by law to protect
30 the natural environment of the people of the state by providing adequate resource planning for the
31 control and regulation of the use of the natural resources of the state and for the preservation,
32 regeneration, and restoration of the natural environment of the state.

33 (c) That these policies can best be achieved through the creation of ~~a coastal resources~~
34 ~~management council~~ [the bureau](#) as the principal mechanism for management of the state's coastal

1 resources.

2 (d) The general assembly recognizes and declares that maintenance dredging is required to
3 remove natural silt accumulations; Rhode Island has not had a general maintenance dredging policy
4 and programs for ports, port facilities, channels, harbors, public and private marinas and boating
5 facilities, recreational facilities and habitat areas; other major coastal states have maintenance
6 dredging policies and in-water maintenance dredge disposal sites; as a result of the lack of a general
7 maintenance dredging policy and program and as a result there has been:

8 (1) A decrease in the depth of the Providence Channel from forty-four (44) feet in 1971 to
9 twenty-four (24) feet in 1996;

10 (2) Navigational restrictions on ocean going vessels through the state's waterways and
11 channels; and

12 (3) A decrease in the number of available slips and moorings at marinas throughout the
13 state; and the lack of a maintenance dredging policy and programs have significant adverse
14 environmental and economic effects on the state and therefore it is in the best interest of the state,
15 the cities and towns of the state, and the citizens thereof for the state to have a general maintenance
16 dredging policy and programs to resolve issues related to dredge maintenance and disposal and
17 avoid future significant direct and indirect adverse impact on the environment and economy of the
18 state.

19 (e) The ~~coastal resources management council~~ department is hereby designated as the lead
20 state agency for purposes of dredging in tidal waters and as such shall have the following duties
21 and responsibilities:

22 (1) To coordinate the interest of the state with regard to dredging;

23 (2) To formulate and adopt a state policy with regard to dredging which integrates those
24 interests;

25 (3) To cooperate with, negotiate, and to enter into agreements on behalf of the state with
26 the federal government and with other public bodies and private parties with regard to dredging;

27 (4) To act as the initial and primary point of contact for all applications to the state for
28 dredging projects in tidal waters;

29 (5) To develop, prepare, adopt pursuant to § 46-23-11, implement, and maintain a
30 comprehensive plan for dredge material management; and

31 (6) To cooperate and coordinate with the departments of environmental management,
32 transportation, administration, and health, and the economic development corporation in the
33 conduct of these duties and responsibilities.

34 (f)(1) The legislature recognizes that under Article I, § 17, the submerged lands of the state

1 are impressed with a public trust and that the state is responsible for the protection of the public's
2 interest in these lands. The state maintains title in fee to all soil within its boundaries that lies below
3 the high water mark, and it holds that land in trust for the use of the public. In benefiting the public,
4 the state preserves certain public rights which include, but are not limited to, fishery, commerce,
5 and navigation in these waters and the submerged lands that they cover.

6 (2) ~~Since its establishment in 1971, the CRMC has had the authority~~ The department is
7 authorized to manage and plan for the preservation of the coastal resources of the state including,
8 but not limited to, submerged lands. The legislature hereby declares that, in light of the unique size,
9 scope, and overall potential impact upon the environment of large scale filling projects involving
10 twenty-five (25) acres or more, any lease of tidal lands, or any license to use those lands, is subject
11 to approval, disapproval, or conditional approval by the direct enactment of the general assembly
12 by legislative action. The ~~CRMC~~ department shall review all requests for leases, licenses to use the
13 land, and other authority to use the land made by any applicant prior to presentation of the request
14 to the general assembly, and the ~~CRMC~~ department shall make recommendations on the request to
15 the general assembly. With the exception of any and all projects to fill land of twenty-five (25)
16 acres or more, the general assembly hereby recognizes and declares that the ~~CRMC~~ department is
17 delegated the sole and exclusive authority for the leasing of submerged and filled lands and giving
18 licenses for the use of that land. Accordingly, the ~~CRMC~~ department will develop, coordinate, and
19 adopt a system for the leasing of submerged and filled lands, and licenses for the use of that land,
20 and will ensure that all leases and licenses are consistent with the public trust. Pursuant thereto, the
21 ~~CRMC~~ department shall impose a maximum fee of eighty thousand dollars (\$80,000) per annum
22 for any transatlantic cable that makes landfall in Rhode Island. All such fees collected shall be
23 deposited into the Bays, Rivers and Watersheds Fund, established pursuant to § 46-31-12.1, and
24 shall be disbursed according to the purposes of that fund. Nothing contained in this subsection
25 negates, repeals, or alters the provisions, processes, and requirements for the leasing of submerged
26 land for the conduct of aquaculture as set out under chapter 10 of title 20. Therefore, nothing in this
27 chapter shall be construed to limit or impair the authority of the state, or any duly established agency
28 of the state, to regulate filling or dredging affecting tidal lands owned by the state or any other
29 entity, and nothing in this chapter shall be construed to limit or impair the obligation of the applicant
30 to obtain all applicable regulatory approvals. Specifically, and without limiting the foregoing,
31 nothing in this subsection negates, repeals, or alters the provisions, processes, and requirements for
32 water quality certification contained in chapter 12 of this title.

33 (3) Definitions.

34 ~~(i)~~(i) "Filled land" means portions of tidal lands which have been rendered by the acts of

1 man to be no longer subject to tidal action or beneath tidal waters.

2 ~~(iii)~~(ii) "Mean high water" means a line of contour representing the 18.6 year average as
3 determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum, and
4 methodology of the United States Coastal Geodetic Survey within the National Oceanic and
5 Atmospheric Administration.

6 ~~(iv)~~(iii) "Tidal Lands" means those lands that are below the mean high water.

7 **46-23-6. Powers and duties — Rights-of-way.**

8 In order to properly manage coastal resources the ~~council~~ department has the following
9 powers and duties:

10 (1) **Planning and management.**

11 (i) The primary responsibility of the ~~council~~ department shall be the continuing planning
12 for and management of the resources of the state's coastal region. The ~~council~~ department shall be
13 able to make any studies of conditions, activities, or problems of the state's coastal region needed
14 to carry out its responsibilities.

15 (ii) The resources management process shall include the following basic phases:

16 (A) Identify all of the state's coastal resources, water, submerged land, air space, fin fish,
17 shellfish, minerals, physiographic features, and so forth.

18 (B) Evaluate these resources in terms of their quantity, quality, capability for use, and other
19 key characteristics.

20 (C) Determine the current and potential uses of each resource.

21 (D) Determine the current and potential problems of each resource.

22 (E) Formulate plans and programs for the management of each resource, identifying
23 permitted uses, locations, protection measures, and so forth.

24 (F) Carry out these resources management programs through implementing authority and
25 coordination of state, federal, local, and private activities.

26 (G) Formulation of standards where these do not exist, and reevaluation of existing
27 standards.

28 (H) To develop comprehensive programs for dredging in tidal waters and related beneficial
29 use, disposal, monitoring dewatering and transportation of dredge materials.

30 (I) To accept and administer loans and grants from the federal government and from other
31 sources, public or private, for the carrying out of any of its functions, which loans or grants shall
32 not be expended for other than the purposes for which provided.

33 (J) To encourage, participate in, or conduct studies, investigations, research, and
34 demonstrations relating to dredging, disposal of dredge materials and transportation thereof in the

1 tidal waters of the state as the ~~coastal resources management council~~ [department](#) may deem
2 advisable and necessary for the discharge of its duties under this chapter.

3 (K) To collect and disseminate information relating to dredging, disposal of dredge
4 materials and transportation thereof within the tidal waters of the state.

5 (L) To work with the appropriate federal and state agencies to develop as provided for in
6 this chapter and in chapter 6.1 of this title, a comprehensive plan for dredging in tidal waters and
7 related beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

8 (M) To apply for, accept and expend grants and bequests of funds, for the purpose of
9 carrying out the lawful responsibilities of the ~~coastal resources management council~~ [department](#).

10 (iii) An initial series of resources management activities shall be initiated through this basic
11 process, then each phase shall continuously be recycled and used to modify the ~~council's~~
12 [department's](#) resources management programs and keep them current.

13 (iv) Planning and management programs shall be formulated in terms of the characteristics
14 and needs of each resource or group of related resources. However, all plans and programs shall be
15 developed around basic standards and criteria, including:

16 (A) The need and demand for various activities and their impact upon ecological systems.

17 (B) The degree of compatibility of various activities.

18 (C) The capability of coastal resources to support various activities.

19 (D) Water quality standards set by the director of the department of environmental
20 management.

21 (E) Consideration of plans, studies, surveys, inventories, and so forth prepared by other
22 public and private sources.

23 (F) Consideration of contiguous land uses and transportation facilities.

24 (G) Whenever possible consistency with the state guide plan.

25 (v) The ~~council~~ [department](#) shall prepare, adopt, administer, and cause to be implemented,
26 including specifically through its powers of coordination as set forth in subdivision (3) of this
27 section, a marine resources development plan and such special area management plans as the
28 ~~council~~ [department](#) may determine to be appropriate or desirable as follows:

29 (A) *Marine resources development plan.*

30 (I) The purpose of the marine resources development plan shall be to provide an integrated
31 strategy for: (a) improving the health and functionality of Rhode Island's marine ecosystem; (b)
32 providing for appropriate marine-related economic development; and (c) promoting the use and
33 enjoyment of Rhode Island's marine resources by the people of the state.

34 (II) The marine resources development plan shall include specific goals and objectives

1 necessary to accomplish its purposes, performance measures to determine progress toward
2 achieving such goals and objectives, and an implementation program.

3 (III) The marine resources development plan shall be prepared in cooperation with the
4 department of environmental management, the statewide planning program, and the commerce
5 corporation, with the involvement of such other state agencies as may be appropriate, and with such
6 technical support as may be necessary and appropriate from the Narragansett Bay Estuary Program,
7 the Coastal Institute at the University of Rhode Island, and Rhode Island Sea Grant.

8 (IV) The plan shall be responsive to the requirements and principles of the federal coastal
9 zone management act as amended, including, but not limited to, the expectations of the act for
10 incorporating the federal Clean Water Act into coastal zone management programs.

11 (V) The marine resources development plan shall take into account local land use
12 management responsibilities as provided for under title 45 and harbor management responsibilities,
13 and the preparation of the plan shall include opportunities for involvement and/or comment by
14 cities and towns.

15 (VI) The marine resources development plan shall be adopted by the council in accordance
16 with the provisions of this subsection by July 1, 2005, shall as appropriate incorporate the
17 recommendations of the Governor's Narragansett Bay and Watershed Planning Commission, and
18 shall be made consistent with systems level plans as appropriate, in order to effectuate the purposes
19 of systems level planning. The ~~council~~ department shall update the marine resources development
20 plan at least once every five (5) years.

21 (VII) The ~~council~~ department shall administer its programs, regulations, and
22 implementation activities in a manner consistent with the marine resources development plan.

23 (VIII) The marine resources development plan and any updates thereto shall be adopted as
24 appropriate as elements of the state guide plan pursuant to § 42-11-10.

25 (B) *Special area management plans.*

26 (I) The ~~council~~ department shall adopt such special area management plans as deemed
27 necessary and desirable to provide for the integration and coordination of the protection of natural
28 resources, the promotion of reasonable coastal-dependent economic growth, and the improved
29 protection of life and property in the specific areas designated ~~council~~ department as requiring such
30 integrated planning and coordination.

31 (II) The integrated planning and coordination herein specified shall include, but not be
32 limited to, federal agencies, state agencies, boards, commissions, and corporations, including
33 specifically the commerce corporation, and cities and towns, shall utilize to the extent appropriate
34 and feasible the capacities of entities of higher education, including Rhode Island Sea Grant, and

1 shall provide for the participation of advocacy groups, community-based organizations, and private
2 persons.

3 (III) The ~~council~~ [department](#) shall administer its programs, regulations, and
4 implementation activities in a manner consistent with special area management plans.

5 (IV) Special area management plans and any updates thereto shall be adopted as
6 appropriate as elements of the state guide plan pursuant to § 42-11-10.

7 (2) **Implementation.**

8 (i) The ~~council~~ [department](#) is authorized to formulate policies and plans and to adopt
9 regulations necessary to implement its various management programs. ~~With respect to such policies
10 and plans which relate to matters where the coastal resources management council and the
11 department of environmental management have concurrent jurisdiction and upon formulation of
12 the plans and regulations, the council shall, prior to adoption, submit the proposed plans or
13 regulations to the director of the department of environmental management for the director's
14 review. The director shall review and submit comments to the council within thirty (30) days of
15 submission to the director by the council. The comments of the director shall include findings with
16 regard to the consistency of the policies, plans and/or regulations with the requirements of laws
17 administered by the department. The council shall consider the director's comments prior to
18 adoption of any such policies, plans or regulations and shall respond in writing to findings of the
19 director with regard to the consistency of said policies, plans and/or regulations with the
20 requirements of laws administered by the department.~~

21 (ii)(A) The ~~council~~ [department](#) shall have exclusive jurisdiction below mean high water for
22 all development, operations, and dredging, consistent with the requirements of chapter 6.1 of this
23 title and except as necessary for the department of environmental management to exercise its
24 powers and duties and to fulfill its responsibilities pursuant to §§ 42-17.1-2 and 42-17.1-24, and
25 any person, firm, or governmental agency proposing any development or operation within, above,
26 or beneath the tidal water below the mean high water mark, extending out to the extent of the state's
27 jurisdiction in the territorial sea, shall be required to demonstrate that its proposal would not:

- 28 (I) Conflict with any resources management plan or program;
- 29 (II) Make any area unsuitable for any uses or activities to which it is allocated by a
30 resources management plan or program adopted by the ~~council~~ [department](#); or
- 31 (III) Significantly damage the environment of the coastal region.

32 (B) The ~~council~~ [department](#) shall be authorized to approve, modify, set conditions for, or
33 reject any such proposal.

34 (iii) The authority of the ~~council~~ [department](#) over land areas (those areas above the mean

1 high water mark) shall be limited to two hundred feet (200') from the coastal physiographic feature
2 or to that necessary to carry out effective resources management programs. This shall be limited to
3 the authority to approve, modify, set conditions for, or reject the design, location, construction,
4 alteration, and operation of specified activities or land uses when these are related to a water area
5 under the agency's jurisdiction, regardless of their actual location. The ~~council's~~ department's
6 authority over these land uses and activities shall be limited to situations in which there is a
7 reasonable probability of conflict with a plan or program for resources management or damage to
8 the coastal environment. These uses and activities are:

- 9 (A) Power generating over forty megawatts (40 MW) and desalination plants.
- 10 (B) Chemical or petroleum processing, transfer, or storage.
- 11 (C) Minerals extraction.
- 12 (D) Shoreline protection facilities and geographical features, and all directly associated
13 contiguous areas which are necessary to preserve the integrity of the facility and/or features.
- 14 (E) Coastal wetlands and all directly associated contiguous areas which are necessary to
15 preserve the integrity of the wetlands including any freshwater wetlands located in the vicinity of
16 the coast. ~~The actual determination of freshwater wetlands located in coastal vicinities and under
17 the jurisdiction of the coastal resources management council shall be designated on such maps that
18 are agreed to in writing and made available for public use by the coastal resources management
19 council and the director, department of environmental management, within three (3) months of
20 [August 6, 1996].~~ The ~~CRMC~~ department shall have exclusive jurisdiction over the wetlands areas
21 described in this section notwithstanding any provision of chapter 1, title 2 or any other provision,
22 except as provided in subsection (iv) of this section. ~~Within six (6) months of [August 6, 1996] the
23 council in cooperation with the director shall develop rules and regulations for the management
24 and protection of freshwater wetlands, affected by an aquaculture project, outside of those
25 freshwater wetlands located in the vicinity of the coast and under the exclusive jurisdiction of the
26 director of the department of environmental management.~~ For the purpose of this chapter, a "coastal
27 wetland" means any salt marsh bordering on the tidal waters of this state, whether or not the tidal
28 waters reach the littoral areas through natural or artificial watercourses, and those uplands directly
29 associated and contiguous thereto which are necessary to preserve the integrity of that marsh.
30 Marshes shall include those areas upon which grow one or more of the following: smooth cordgrass
31 (spartina alterniflora), salt meadow grass (spartina patens), spike grass (distichlis spicata), black
32 rush (juncus gerardi), saltworts (salicornia spp.), sea lavender (limonium carolinianum), saltmarsh
33 bulrushes (scirpus spp.), hightide bush (iva frutescens), tall reed (phragmites communis), tall
34 cordgrass (spartina pectinata), broadleaf cattail (typha latifolia), narrowleaf cattail (typha

1 angustifolia), spike rush (eleocharis rostellata), chairmaker's rush (scirpus americana), creeping
2 bentgrass (agrostis palustris), sweet grass (hierochloe odorata), and wild rye (etlymus virginicus).

3 (F) Sewage treatment and disposal and solid waste disposal facilities.

4 (G) Beneficial use, dewatering, and disposal of dredged material of marine origins, where
5 such activities take place within two hundred feet (200') of mean high water or a coastal
6 physiographic feature, or where there is a reasonable probability of conflict with a plan or program
7 for resources management or damage to the coastal environment.

8 (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, the department of
9 environmental management shall maintain jurisdiction over the administration of chapter 1, title 2,
10 including permitting of freshwater wetlands alterations and enforcement, with respect to all
11 agricultural activities undertaken by a farmer, as that term is defined in § 2-1-22(j), wherever
12 located; ~~provided, however, that with respect to activities located partially or completely within~~
13 ~~two hundred feet (200') of the coastal physiographic feature, the department shall exercise~~
14 ~~jurisdiction in consultation with the council.~~

15 (3) **Coordination.** The ~~council~~ [department](#) has the following coordinating powers and
16 duties:

17 (i) Functioning as a binding arbitrator in any matter of dispute involving both the resources
18 of the state's coastal region and the interests of two (2) or more municipalities or state agencies.

19 (ii) Consulting and coordinating actions with local, state, regional, and federal agencies
20 and private interests.

21 (iii) Conducting or sponsoring coastal research.

22 (iv) Advising the governor, the general assembly, and the public on coastal matters.

23 (v) Serving as the lead state agency and initial and primary point of contact for dredging
24 activities in tidal waters and in that capacity, integrating and coordinating the plans and policies of
25 other state agencies as they pertain to dredging in order to develop comprehensive programs for
26 dredging as required by subparagraph (1)(ii)(H) of this section and chapter 6.1 of this title. The
27 Rhode Island resource recovery corporation prior to purchasing cover material for the state landfill
28 shall first contact the ~~CRMC~~ [department](#) to see if there is a source of suitable dredged material
29 available which shall be used in place of the purchase cover material. Other state agencies engaged
30 in the process of dump closures shall also contact the ~~CRMC~~ [department](#) to see if there is a source
31 of suitable dredged material available, which shall be used in place of the purchase cover material.
32 In addition, cities and towns may contact the ~~CRMC~~ [department](#) prior to closing city or town
33 controlled dump sites to see if there is a source of suitable dredge material available, which may be
34 used in place of the purchase cover material.

1 (vi) Acting as the state's representative to all bodies public and private on all coastal and
2 aquaculture related matters.

3 (4) **Operations.** The ~~council~~ [department](#) is authorized to exercise the following operating
4 functions, which are essential to management of coastal resources:

5 (i) Issue, modify, or deny permits for any work in, above, or beneath the areas under its
6 jurisdiction, including conduct of any form of aquaculture.

7 (ii) Issue, modify, or deny permits for dredging, filling, or any other physical alteration of
8 coastal wetlands and all directly related contiguous areas which are necessary to preserve the
9 integrity of the wetlands, including, but not limited to, the transportation and disposal of dredge
10 materials in the tidal waters.

11 (iii) Grant licenses, permits, and easements for the use of coastal resources which are held
12 in trust by the state for all its citizens, and impose fees for private use of these resources.

13 (iv) Determining the need for and establishing pierhead, bulkhead, and harbor lines.

14 (v) Enforcing and implementing riparian rights in the tidal waters after judicial decisions.

15 (vi) The ~~council~~ [department](#) may require an owner or operator of a commercial wharf or
16 pier of a marine commercial facility, as defined in 300.3 of the Rhode Island coastal ~~resources~~
17 management program [regulations](#), but not including those facilities defined in 300.4 of the Rhode
18 Island coastal ~~resources~~ management program [regulations](#), and which is capable of offloading
19 cargo, and is or will be subject to a new use or a significant intensification of an existing use, to
20 demonstrate that the commercial wharf or pier is fit for that purpose. For the purposes of this
21 subsection, a "commercial wharf or pier" means a pier, bulkhead, wharf, docking facility, or
22 underwater utilities. The ~~council~~ [department](#) may order said owner or operator to provide an
23 engineering certification to the ~~council's~~ [department's](#) satisfaction that the commercial wharf or pier
24 is fit for the new use or intensification of an existing use. If the ~~council~~ [department](#) determines that
25 the commercial wharf or pier is not fit, it may order the owner or operator to undertake the necessary
26 work to make the commercial wharf or pier safe, within a reasonable time frame. If the ~~council~~
27 [department](#) determines that the commercial wharf or pier, because of its condition, is an immediate
28 threat to public health and safety it may order the commercial wharf or pier closed until the
29 necessary work to make the commercial wharf or pier safe has been performed and approved by
30 the ~~council~~ [department](#). All work performed must conform to the ~~council's~~ [department's](#)
31 management program. The ~~council~~ [department](#) is also given the authority to develop regulations to
32 carry out this provision and to impose administrative penalties of five thousand dollars (\$5,000)
33 per day up to a maximum of twenty thousand dollars (\$20,000) consistent with § 46-23-7.1 where
34 there has been a violation of the orders under this provision.

1 (5) **Rights-of-way.**

2 (i) The ~~council~~ [department](#) is responsible for the designation of all public rights-of-way to
3 the tidal water areas of the state, and shall carry on a continuing discovery of appropriate public
4 rights-of-way to the tidal water areas of the state.

5 (ii) The ~~council~~ [department](#) shall maintain a complete file of all official documents relating
6 to the legal status of all public rights-of-way to the tidal water areas of the state.

7 (iii)(A) The ~~council~~ [department](#) has the power to designate for acquisition and
8 development, and posting, and all other functions of any other department for tidal rights-of-way
9 and land for tidal rights-of-way, parking facilities, and other ~~council~~ [department](#) related purposes.

10 (B) Further, the ~~council~~ [department](#) has the power to develop and prescribe a standard sign
11 to be used by the cities and towns to mark designated rights-of-way.

12 (iv) In conjunction with this subdivision, every state department controlling state-owned
13 land close to or adjacent to discovered rights-of-way is authorized to set out the land, or so much
14 of the land that may be deemed necessary for public parking.

15 (v) No use of land for public parking shall conflict with existing or intended use of the land,
16 and no improvement shall be undertaken by any state agency until detailed plans have been
17 submitted to and approved by the governing body of the local municipality.

18 (vi) In designating rights-of-way, the ~~council~~ [department](#) shall consider the following
19 matters in making its designation:

20 (A) Land evidence records;

21 (B) The exercise of domain over the parcel such as maintenance, construction, or upkeep;

22 (C) The payment of taxes;

23 (D) The creation of a dedication;

24 (E) Public use;

25 (F) Any other public record or historical evidence such as maps and street indexes;

26 (G) Other evidence as set out in § 42-35-10.

27 (vii) A determination by the ~~council~~ [department](#) that a parcel is a right-of-way shall be
28 decided by substantial evidence. A copy of the final ~~council~~ [department](#) determination, and all
29 official documents related to the ~~council~~ [department](#) determination, shall be provided to the
30 municipality in which the right-of-way is located.

31 (viii) Municipalities shall be required to identify and maintain a current list of public rights-
32 of-way to the tidal water areas in their municipality that have been designated by the ~~council~~
33 [department and previously designated by the Rhode Island coastal resources management agency](#)
34 in accordance with this section. Municipal identification of ~~the council's~~ [such](#) designated public

1 rights-of-way shall also be incorporated and displayed on official maps in accordance with § 45-
2 23.1-1. Non-compliance with this municipal responsibility shall have no effect on the ~~council~~
3 [public rights-of-way to the tidal water areas](#) designation process or final [public rights-of-way to the](#)
4 [tidal water areas](#) determinations ~~by the council~~ that are set forth in this section.

5 (ix) The ~~council~~ [department](#) shall be notified whenever by the judgment of the governing
6 body of a coastal municipality, a public right-of-way to tidal water areas located in such
7 municipality has ceased to be useful to the public, and such governing body proposes an order of
8 abandonment of such public right-of-way. Said notice shall be given not less than sixty (60) days
9 prior to the date of such abandonment.

10 (6) **Preexisting residential boating facilities.**

11 (i) The council is hereby authorized and empowered to issue assent for preexisting
12 residential boating facilities constructed prior to January 1, 1985. These assents may be issued for
13 preexisting residential boating facilities, even though such facilities do not meet current standards
14 and policies of the council; provided, however, that the council finds that such facilities do not pose
15 any significant risk to the coastal resources of the state of Rhode Island and do not endanger human
16 safety.

17 (ii) In addition to the above criteria, the applicant shall provide clear and convincing
18 evidence that:

19 (A) The facility existed in substantially the same configuration as it now exists prior to
20 January 1, 1985;

21 (B) The facility is presently intact and functional; and

22 (C) The facility presents no significant threat to the coastal resources of the state of Rhode
23 Island or human safety.

24 (iii) The applicant, to be eligible for this provision, shall apply no later than January 31,
25 1999.

26 (iv) The council is directed to develop rules and regulations necessary to implement this
27 subdivision.

28 (v) It is the specific intent of this subsection to require that all preexisting residential
29 boating facilities constructed on January 1, 1985, or thereafter conform to this chapter and the plans,
30 rules and regulations of the ~~council~~ [department](#).

31 (7) **Lease of filled lands which were formerly tidal lands to riparian or littoral owners.**

32 (i) Any littoral or riparian owner in this state who desires to obtain a lease from the state
33 of Rhode Island of any filled lands adjacent to his or her upland shall apply to the ~~council~~
34 [department](#), which may make the lease. Any littoral or riparian owner who wishes to obtain a lease

1 of filled lands must obtain pre-approval, in the form of an assent, from the ~~council~~ [department](#). Any
2 lease granted by the ~~council~~ [department](#) shall continue the public's interest in the filled lands
3 including, but not limited to, the rights of navigation, fishery, and commerce. The public trust in
4 the lands shall continue and run concurrently with the leasing of the lands by the state to private
5 individuals, corporations, or municipalities. Upon the granting of a lease by the ~~council~~ [department](#),
6 those rights consistent with the public trust and secured by the lease shall vest in the lessee. The
7 ~~council~~ [department](#) may approve a lease of filled lands for an initial term of up to fifty (50) years,
8 with, or without, a single option to renew for an additional term of up to fifty (50) years.

9 (ii) The lessor of the lease, at any time, for cause, may by express act cancel and annul any
10 lease previously made to the riparian owner when it determines that the use of the lands is violating
11 the terms of the lease or is inconsistent with the public trust, and upon cancellation the lands, and
12 rights in the land so leased, shall revert to the state.

13 (8) "*Marinas*" as defined in the coastal ~~resources~~ management program [regulations](#) in effect
14 as of June 1, 1997, are deemed to be one of the uses consistent with the public trust. Subdivision
15 (7) is not applicable to:

16 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the
17 owner) which has an assent issued by the council to use any land under water in front of his or her
18 lands as a marina, which assent was in effect on June 1, 1997;

19 (ii) Any alteration, expansion, or other activity at a marina (and any successor in interest)
20 which has an assent issued by the council, which assent was in effect on June 1, 1997; and

21 (iii) Any renewal of assent to a marina (or successor in interest), which assent was issued
22 by the council and in effect on June 1, 1997.

23 (9) "*Recreational boating facilities*" including marinas, launching ramps, and recreational
24 mooring areas, as defined by and properly permitted by the ~~council~~ [department](#), are deemed to be
25 one of the uses consistent with the public trust. Subdivision (7) is not applicable to:

26 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the
27 owner) which has an assent issued by the council to use any land under water in front of his or her
28 lands as a recreational boating facility; any alteration, expansion or other activity at a recreational
29 boating facility (and any successor in interest) which has an assent issued by the council, which
30 assent was in effect as of June 1, 1997; and

31 (ii) Any renewal of assent to a recreational boating facility (or successor in interest), which
32 assent was issued by the council and in effect on June 1, 1997.

33 **46-23-6.1. Newport "cliff walk" — Public right-of-way — Legal studies.**

34 The ~~council~~ [department](#) is hereby directed to carry out any and all legal studies which it

1 shall deem necessary in order to designate the Newport "cliff walk", so called, as a public right-of-
2 way pursuant to § 46-23-6(5).

3 **46-23-6.2. Abandonment of rights-of-way.**

4 No city or town shall abandon a right-of-way previously designated as such by the ~~council~~
5 Rhode Island coastal management council and/or designated by the department unless the ~~council~~
6 department approved the abandonment.

7 **46-23-7. Violations.**

8 (a)(1) In any instances wherein there is a violation of the coastal resources management
9 program, or a violation of regulations or decisions of the ~~council~~ department, the ~~commissioner of~~
10 ~~coastal resources management~~ department shall have the power to order any person to cease and
11 desist or to remedy any violation of any provisions of this chapter, or any rule, regulation, assent,
12 order, or decision of the ~~council~~ department whenever the ~~commissioner of coastal resources~~
13 ~~management~~ department shall have reasonable grounds to believe that such violation has occurred.

14 (2) ~~Council~~ Department staff, conservation officers within the department of
15 environmental management, and state and municipal police shall be empowered to issue written
16 cease and desist orders in any instance where activity is being conducted which constitutes a
17 violation of any provisions of this chapter, or any rule, regulation, assent, order, or decision of the
18 ~~council~~ department.

19 (3) Conservation officers within the department of environmental management, ~~council~~
20 department staff, and state and municipal police shall have authority to apply to a court of
21 competent jurisdiction for a warrant to enter on private land to investigate possible violations of
22 this chapter; provided, that they have reasonable grounds to believe that a violation has been
23 committed, is being committed, or is about to be committed.

24 (b) Any order or notice issued pursuant to subsection (a) shall be eligible for recordation
25 under chapter 13 of title 34, and shall be recorded in the land evidence records in the city/town
26 wherein the property subject to the order is located, and any subsequent transferee of the property
27 shall be responsible for complying with the requirements of the order and notice.

28 (c) The ~~coastal resources management council~~ department shall discharge of record any
29 notice filed pursuant to subsection (b) within thirty (30) days after the violation has been remedied.

30 **46-23-7.1. Administrative penalties.**

31 Any person who violates, or refuses or fails to obey, any notice or order issued pursuant to
32 § 46-23-7(a); or any assent, order, or decision of the ~~council~~ department, may be assessed an
33 administrative penalty by the ~~chairperson or executive director~~ department in accordance with the
34 following:

1 (1) The ~~chairperson or executive director~~ [department](#) is authorized to assess an
2 administrative penalty of not more than ten thousand dollars (\$10,000) for each violation of this
3 section, and is authorized to assess additional penalties of not more than one thousand (\$1,000) for
4 each day during which this violation continues after receipt of a cease-and-desist order from the
5 ~~council~~ [department](#) pursuant to § 46-23-7(a), but in no event shall the penalties in aggregate exceed
6 fifty thousand dollars (\$50,000). Prior to the assessment of a penalty under this subdivision, the
7 property owner or person committing the violation shall be notified by certified mail or personal
8 service that a penalty is being assessed. The notice shall include a reference to the section of the
9 law, rule, regulation, assent, order, or permit condition violated; a concise statement of the facts
10 alleged to constitute the violation; a statement of the amount of the administrative penalty assessed;
11 and a statement of the party's right to an administrative hearing.

12 ~~(2) The party shall have twenty one (21) days from receipt of the notice within which to
13 deliver to the council a written request for a hearing. This request shall specify in detail the
14 statements contested by the party. The executive director shall designate a person to act as hearing
15 officer. If no hearing is requested, then after the expiration of the twenty one (21) day period, the
16 council shall issue a final order assessing the penalty specified in the notice. The penalty is due
17 when the final order is issued. If the party shall request a hearing, any additional daily penalty shall
18 not commence to accrue until the council issues a final order.~~

19 ~~(3) If a violation is found to have occurred, the council may issue a final order assessing
20 not more than the amount of the penalty specified in the notice. The penalty is due when the final
21 order is issued.~~

22 ~~(4) The party may within thirty (30) days appeal the final order, of fine assessed by the
23 council to the superior court which shall hear the assessment of the fine de novo.~~

24 **46-23-7.2. Proceedings for enforcement.**

25 The superior court shall have jurisdiction to enforce the provisions of this chapter, the
26 coastal resource management program, or any rule, regulation, assent, or order issued pursuant
27 thereto. Proceedings under this section may follow the course of equity, and shall be instituted and
28 prosecuted in the name of and at the direction of the ~~chairperson and council~~ [department](#) by the
29 attorney general or counsel designated by the ~~council~~ [department](#). Proceedings provided in this
30 section shall be in addition to, and may be utilized in lieu of, other administrative or judicial
31 proceedings authorized by this chapter.

32 **46-23-7.4. Penalty for blocking or posting of rights-of-way.**

33 Any person who shall post or block any tidal water, public right-of-way, as [previously](#)
34 designated by the ~~council~~ [Rhode Island coastal resources management council or designated by the](#)

1 department, shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by
2 imprisonment for not more than three (3) months or both; and each day the posting or blocking
3 continues or is repeated shall be deemed a separate offense. The ~~chairperson of the council~~
4 department, through ~~council's~~ the department's legal counsel or the attorney general, may apply to
5 any court of competent jurisdiction for an injunction to prevent the unlawful posting or blocking of
6 any tidal water, public right-of-way.

7 **46-23-7.5. Prosecution of criminal violations.**

8 The ~~chairperson and anyone designated by the chairperson~~ department, without being
9 required to enter into any recognizance or to give surety for cost, may institute proceedings in the
10 name of the state. It shall be the duty of the attorney general and/or the solicitor of the city or town
11 in which the alleged violation has occurred to conduct the prosecution of all the proceedings. The
12 ~~chairperson~~ director may delegate his or her authority to bring prosecution by complaint and
13 warrant to any law enforcement officials authorized by law to bring complaints for the issuance of
14 search or arrest warrants pursuant to chapters 5 and 6 of title 12.

15 **46-23-8. Gifts, grants, and donations.**

16 The ~~council~~ department is authorized to receive any gifts, grants, or donations made for
17 any of the purposes of its program, which shall be deposited as general revenues, and to disburse
18 and administer the gifts, grants, or donations amounts appropriated in accordance with the terms
19 thereof. The ~~council~~ department is authorized to receive any sums provided by an applicant for use
20 by the ~~council~~ department in its hearing process, which shall be deposited as general revenues, and
21 to disburse and administer the general revenue amounts appropriated in accordance with the rules
22 and regulations promulgated by the ~~council~~ department.

23 **46-23-9. Subpoena.**

24 The ~~council~~ department is hereby authorized and empowered to summon witnesses and
25 issue subpoenas in substantially the following form:

26 Sc.

27 To _____ of

28 _____ greeting:

29 You are hereby required, in the name of the state of Rhode Island, to make your appearance
30 before the ~~commission~~ department on _____ in the
31 _____ city of
32 _____ on the
33 _____ day of
34 _____ to give evidence of what you know relative to a

1 matter upon investigation by the ~~commission~~ department on
2 _____ and produce and then and there have and give the
3 following:

4 Hereof fail not, as you will answer to default under the penalty of the law in that behalf
5 made and provided.

6 Dated at _____ the
7 _____ day of
8 _____ in the year
9 _____.

10 **46-23-10. Cooperation of departments.**

11 All other departments and agencies and bodies of state government are hereby authorized
12 and directed to cooperate with and furnish such information as the ~~council commission~~ department
13 shall require.

14 **46-23-13. Application and hearing fees.**

15 The ~~council commission~~ department shall be authorized to establish reasonable fees for
16 applications and hearings. All fees collected by the ~~council commission~~ department, including fees
17 collected for leases, shall be deposited as general revenues. The state controller is hereby authorized
18 and directed to draw his or her orders upon the general treasurer for payment of such sum or sums
19 as may be necessary from time to time and upon receipt by him or her of duly authenticated
20 vouchers presented by the ~~commissioner of coastal resources management~~ director.

21 **46-23-14. Expert testimony.**

22 The ~~council commission~~ department shall be authorized to engage its own expert and
23 outside consultants, and the ~~council commission~~ department shall be empowered to use that
24 testimony in making its decisions.

25 **46-23-15. Federal grants and interstate cooperation.**

26 The ~~council commission~~ department is authorized to accept any federal grants. It is further
27 given the power to administer land and water use regulations as necessary to fulfill their
28 responsibilities under the Federal Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and to
29 acquire fee simple and less than fee simple interests under any federal or state program. The ~~council~~
30 ~~commission~~ department is authorized to coordinate and cooperate with other states in furtherance
31 of its purposes. The ~~council commission~~ department may expend those grants and appropriations.
32 The ~~coastal resources management council commission~~ department for the purposes of the federal
33 Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., is the coastal zone agency under §§ 301
34 through 313 and §§ 318 and 6217 of said act.

1 **46-23-15.1. Coordination of harbor safety and enforcement patrols.**

2 Coastal municipalities which share a common boundary along their public waters may
3 enter into a binding memorandum of agreement allowing for harbormasters and other officials
4 charged with enforcement of harbor management plan harbor ordinances from one coastal
5 municipality to enforce the harbor ordinances of the bordering coastal municipality upon the public
6 waters of the bordering coastal municipality when the coastal municipalities have harbor
7 management plans previously approved by the ~~coastal resources management council~~ Rhode Island
8 coastal resources management council and/or approved by the department and the memorandum of
9 agreement is approved by the respective town or city councils. This binding memorandum of
10 agreement shall specify how each coastal municipality is to receive any fines collected under this
11 reciprocal enforcement agreement and the jurisdiction in which any disputes arising out of this
12 reciprocal enforcement agreement shall be litigated.

13 **46-23-16. Length of permits, licenses, and easements.**

14 The ~~council~~ ~~commission~~ department is authorized to grant permits, licenses, and easements
15 for any term of years or in perpetuity. Permits, licenses, or easements which were previously issued
16 by the Rhode Island coastal resources management council and/or are issued by the ~~council~~
17 department for the filling of the submerged or submersible lands of the state of Rhode Island remain
18 subject to the public trust, and no title is conveyed by such documents. All such permits, licenses,
19 and easements shall clearly state that no title is being conveyed. Permits, licenses or easements
20 issued by the ~~council~~ department are valid only with the conditions and stipulation under which
21 they are granted and imply no guarantee of renewal. The initial application or an application for
22 renewal may be subject to denial or modification. If an application is granted, said permit, license
23 and easement may be subject to revocation and/or modification for failure to comply with the
24 conditions and stipulations under which the same was issued or for other good cause. ~~The division~~
25 ~~of coastal resources of the department of environmental management shall transfer all of the records~~
26 ~~and files of the former division of harbours and rivers to the council.~~

27 **46-23-18. Prohibited activities.**

28 (a) No person, either as principal, agent or servant nor any firm, corporation, or any other
29 entity shall, without a permit issued by the ~~coastal resources management council~~ department,
30 construct a marina within two thousand feet (2000') of a shellfish management area as defined by
31 rules and regulations of the department of environmental management. Such permit shall include
32 any permit required under subsection (b).

33 (b) No person, either as principal, agent, or servant, or any firm, corporation or any other
34 entity, shall, within the tidal waters of the state, conduct or cause to conduct dredging,

1 transportation and/or disposal of dredge materials without a permit issued by the ~~coastal resources~~
2 ~~management council~~ [department](#), a water quality certification issued by the department of
3 environmental management pursuant to chapter 12 of this title and any permit required by the army
4 corps of engineers. In addition, no person, either as principal, agent, or servant, nor any firm,
5 corporation or any other entity, shall dispose of dredge materials other than in tidal waters without
6 any permit, approval or certification that may otherwise be required.

7 **46-23-18.1. Permitting.**

8 (a) Any person, either as principal, agent, or servant, or any firm, corporation or any other
9 entity desiring to conduct any activity or activities specified in § 46-23-18 shall file an application
10 for a permit with the ~~coastal resources management council~~ [department](#) upon forms furnished by
11 ~~coastal resources management council~~ [department](#).

12 (b) A hearing shall be held on the application within thirty (30) days of filing.

13 (c) The applicant shall bear the burden of proving that the activity or activities specified in
14 the application will cause no significant adverse impact upon the environment or natural resources
15 of the state, and the ~~coastal resources management council~~ [department](#) shall be empowered to deny
16 the application if the applicant does not demonstrate, in addition to other requirements of this
17 chapter, that the activity or activities will not:

18 (i) Significantly adversely affect any shellfish management area as designated by the
19 department of environmental management or the marine fisheries council;

20 (ii) Be in a significant conflict with the marine ecology within or adjacent to the state's
21 territorial waters; or

22 (iii) Significantly harm or destroy existing fishing grounds.

23 (d) With respect to an application seeking a permit from the ~~coastal resources management~~
24 ~~council~~ [department](#) to conduct or cause to conduct dredging, transportation and/or disposal of
25 dredge material, the applicant shall also satisfy the ~~council~~ [department](#) that the proposal in the
26 application is consistent with a comprehensive program developed pursuant to § 46-23-6(1)(ii)(H).

27 (e) In determining whether an applicant has met the burden of proof under subsection (c),
28 the ~~coastal resources management council~~ [department](#) shall apply standards that conform with the
29 federal Environmental Protection Agency's applicable standards and guidelines for the
30 management of dredge materials, including, but not limited to, the federal Environmental
31 Protection Agency's rules, regulations and guidelines for deviating from said standards.

32 (f) The applicant shall, at least three (3) days before commencing any dredging, give
33 written notice to the ~~coastal resources management council~~ [department](#) of the intent to commence
34 the activities specified in the permit.

1 **46-23-18.2. Rules and regulations.**

2 The ~~council~~ [department](#), ~~upon recommendation by the coastal resources advisory~~
3 ~~committee~~, shall issue reasonable rules and regulations governing the dredging, transporting and
4 disposal of all dredge materials in accordance with this chapter.

5 **46-23-18.3. Sites for disposal of spoil from dredge operations, selection.**

6 (a) The council, upon recommendation of the coastal resources advisory committee, on or
7 before the first day of January, 1999 and [the department](#) periodically thereafter as necessary, shall
8 consistent with the comprehensive programs required in § 46-23-6(1)(ii)(H) identify and establish
9 one or more in-water disposal sites to be used for the purpose of disposal of dredge materials from
10 marinas and yacht clubs.

11 (b) The council, upon recommendation of the coastal resources advisory committee, on or
12 before the first day of January, 2002 and [the department](#) periodically thereafter as necessary, shall
13 consistent with the comprehensive programs required in § 46-23-6(1)(ii)(H) identify and establish
14 one or more in-water disposal sites to be used for the purpose of disposal of dredge materials from
15 all sources not otherwise delineated in (a) above.

16 **46-23-18.4. Enforcement.**

17 The provisions of §§ 46-23-18 through 46-23-18.3 shall be enforced by the ~~coastal~~
18 ~~resources management council~~ [department](#). Nothing herein shall be deemed to abrogate the
19 department of environmental management's authority to enforce its water quality standards adopted
20 pursuant to § 46-12-3(7) or (24).

21 **46-23-18.5. Fees for disposal.**

22 The ~~council~~ [department](#) is authorized to impose a fee of not less than thirty-five dollars
23 (\$35.00) per cubic yard for the disposal of dredge materials at the sites established by the ~~council~~
24 [department](#) pursuant to § 46-23-18.3. The amount of the fee established by the ~~council~~ [department](#)
25 pursuant to the section shall be reviewed by the ~~council~~ [department](#) on an annual basis and revised
26 as the ~~council~~ [department](#) deems necessary, but in no event shall the fee be set at an amount less
27 than thirty-five dollars (\$35.00) per cubic yard of material.

28 **46-23-18.6. ~~Coastal Resources Management Council Dredge Fund~~ Department of**
29 **environmental management dredge fund.**

30 There is hereby created a separate fund to be held by the ~~coastal resources management~~
31 ~~council~~ [department of environmental management](#) to be known as the dredge fund. All amounts
32 pursuant to § 46-23-18.5 must be deposited into the fund and shall not be deposited into the general
33 fund of the state, and shall be kept by the general treasurer of the state in a separate fund for the
34 ~~coastal resources management council~~ [department](#), and shall be paid out by the treasurer upon the

1 order of the ~~council~~ [department](#), without the necessity of appropriation or re-appropriation by the
2 general assembly. Funds must be used to create additional dredging and disposal options and for
3 the management of said disposal options.

4 **46-23-20. Administrative hearings.**

5 All contested cases, all contested enforcement proceedings, and all contested
6 administrative fines shall be heard by the ~~administrative hearing officers, or by subcommittees as~~
7 ~~provided in § 46-23-20.1, pursuant to the regulations promulgated by the council; provided,~~
8 ~~however, that no proceeding and hearing prior to the appointment of the hearing officers shall be~~
9 ~~subject to the provisions of this section~~ [department's division for administrative adjudication as](#)
10 [provided in § 42-17.7-1](#). Notwithstanding the foregoing, the ~~commissioner~~ [director](#) of ~~coastal~~
11 ~~resources management~~ shall be authorized, in his or her discretion, to resolve contested licensing
12 and enforcement proceedings through informal disposition pursuant to regulations promulgated by
13 the ~~council department's division for administrative adjudication as provided in § 42-17.7-1~~
14 [department](#).

15 **46-23-21. Notice of permit — Recordation.**

16 A notice of permit shall be eligible for recordation under chapter 13 of title 34 as
17 determined by the ~~executive~~ director, and shall be recorded at the expense of the applicant in the
18 land evidence records of the city or town where the property subject to permit is located, and any
19 subsequent transferee of the property shall be responsible for complying with the terms and
20 conditions of the permit. The clerk of the various cities and towns shall record any orders, findings,
21 or decisions of the ~~council~~ [department](#) at no expense to the ~~council~~ [department](#).

22 **46-23-22. Solid waste disposal licenses — Hearings.**

23 The ~~chairperson of the coastal resources management council and the commissioner of the~~
24 ~~environmental protection branch of the~~ department of environmental management shall ~~coordinate~~
25 ~~concurrent~~ [conduct](#) hearings on solid waste disposal license applications; provided, however, that
26 the ~~chairperson and the commissioner of the environmental protection branch of the department of~~
27 ~~environmental management~~ [director](#) may designate a hearing officer ~~or subcommittee~~ to hear all
28 matters pertaining to the application and; provided further, that the hearing officer may be from the
29 department of environmental management, ~~the coastal resources management council hearing~~
30 ~~officer, a subcommittee,~~ or an ad hoc hearing officer. ~~The commissioner of coastal resources~~
31 ~~management with the approval of the chairperson may waive jurisdiction in those instances where~~
32 ~~the commissioner finds that there is no substantive coastal resources issue or that another agency~~
33 ~~or branch has adjudicated or addressed the issue.~~

34 **46-23-23. Municipal comprehension plan consideration.**

1 The ~~coastal resources management council~~ department shall conform to the requirements
2 of the Comprehensive Planning and Land Use Regulation Act, § 45-22.2.

3 **46-23-24. Lien on property.**

4 The ~~executive~~ director may record the notice of fee or final order of fine as a lien on the
5 subject property in the land evidence records of the town or city in which said property is located.
6 Recordation of said fee or final order of fine shall be the only manner by which said lien may be
7 perfected against the subject property.

8 **46-23-25. Issuance of beach vehicle registration permits.**

9 (a) The ~~coastal resources management council~~ department may issue beach vehicle
10 registration permits in accordance with § 31-8-1.1 of the general laws and adopt regulations that
11 the ~~council~~ department deems necessary to carry out the provisions of this section. The ~~council~~
12 department may appoint responsible citizens or corporations of the state, engaged in operating
13 sporting goods stores to act as agents with authority to issue permits in the manner and under the
14 conditions as set forth below. Before an appointment shall occur, that citizen or corporation of the
15 state shall deliver to the ~~council~~ department a bond with a surety company authorized to do business
16 in the state of Rhode Island. The requirements and conditions of the bond shall be established by
17 the regulations.

18 (b) Any person or corporation appointed by the ~~council~~ department as provided in section
19 (a) above shall, upon the application of any person entitled to receive a permit under this chapter
20 and upon payment of the specified permit fee, register and issue to the person a beach vehicle
21 registration permit in the form prescribed and furnished by the ~~council~~ department. The permit shall
22 bear the name, place of residence, and signature of the registrant, and the vehicle make, model,
23 year, and license plate number and shall authorize the registrant to own and operate a beach vehicle
24 in the state of Rhode Island during those seasons and in those manners and according to those
25 conditions as shall be provided by regulations established by the ~~council~~ department.

26 SECTION 4. Sections 46-23-2, 46-23-2.1, 46-23-3, 46-23-4, 46-23-4.1, 46-23-5, 46-23-
27 12, 46-23-20.1, 46-23-20.2, 46-23-20.3, 46-23-20.4, 46-23-20.5 and 46-23-20.6 of the General
28 Laws in Chapter 46-23 entitled "Coastal Resources Management Council" are hereby repealed.

29 ~~**46-23-2. Coastal resources management council created—Appointment of members.**~~

30 ~~(a) There is hereby created the coastal resources management council. The coastal~~
31 ~~resources management council shall consist of ten (10) members. Nine (9) members shall be~~
32 ~~appointed by the governor, with advice and consent of the senate, and one member shall serve ex~~
33 ~~officio. All current appointments to the coastal resources management council made by the~~
34 ~~governor with advice and consent of the senate are hereby validated and ratified and those~~

1 ~~appointees shall serve until a new seven member (7) council is selected pursuant to subsection (b)~~
2 ~~of this section or for the remainder of their term, whichever shall occur first.~~

3 ~~(1) Six (6) of the members shall be appointed or elected officials of local government: three~~
4 ~~(3) of whom shall be appointed or elected officials in a municipality of fewer than twenty five~~
5 ~~thousand (25,000) in population, three (3) of whom shall be appointed or elected officials in a~~
6 ~~municipality of more than twenty five thousand (25,000) in population. The populations are to be~~
7 ~~determined by the latest federal census. Elected or appointed municipal officials shall hold seats on~~
8 ~~the council only so long as they remain in their elected or appointed office. Each municipal~~
9 ~~appointment shall cease if the appointed or elected official shall no longer hold or change the office~~
10 ~~which they held upon appointment. At least five (5) out of the six (6) appointed or elected members~~
11 ~~must be appointed or elected in a coastal municipality. When the governor submits his or her~~
12 ~~appointments to the senate for advice and consent, the governor shall specify the appointed or~~
13 ~~elected office that each municipal appointment holds; the population of the municipality~~
14 ~~represented; and the member being replaced.~~

15 ~~(2) — (4) [Deleted by P.L. 2025, ch. 304, § 1 and P.L. 2025, ch. 313, § 1.]~~

16 ~~(b) Notwithstanding subsection (a) of this section, on March 1, 2026, all current members~~
17 ~~of the coastal resources management council shall have their terms expire. In anticipation thereof,~~
18 ~~prior to March 1, 2026, the governor shall appoint a coastal resources management council that~~
19 ~~shall consist of seven (7) voting members, one of whom shall be the director of the department of~~
20 ~~environmental management who shall serve ex officio. The six (6) remaining members shall be~~
21 ~~public members appointed by the governor with the advice and consent of the senate. All appointed~~
22 ~~members shall possess background, qualifications, and expertise in environmental and coastal~~
23 ~~management matters, provided that one of whom shall be an engineer; one of whom shall be a~~
24 ~~coastal biologist; and one of whom shall be a representative of an environmental organization.~~
25 ~~Current or past service on the coastal resources management council shall not disqualify an~~
26 ~~individual from reappointment pursuant to this subsection. Notwithstanding the foregoing, if the~~
27 ~~seven member (7) council is not seated by March 1, 2026, in accordance with this section, the~~
28 ~~members appointed pursuant to subsection (a) of this section shall continue to serve until such time~~
29 ~~as all members are appointed and confirmed in accordance with this section.~~

30 ~~(c) In addition to the foregoing voting members, the coastal resources management council~~
31 ~~may include a varying number of other members who may serve in an advisory capacity without~~
32 ~~the right to vote and who may be invited to serve by either the governor or the voting members.~~
33 ~~These advisory members may represent the federal agencies such as the navy, coast guard, corps~~
34 ~~of engineers, public health service, and the Federal Water Pollution Control Administration, and~~

1 ~~such regional agencies as the New England River Basins Commission and the New England~~
2 ~~Regional Commission and any other group or interest not otherwise represented.~~

3 ~~(d) There may be established a coastal resources advisory committee which committee,~~
4 ~~appointed by the executive director of the coastal resources management council, may include, but~~
5 ~~not be limited to, representation from the following groups: one of whom may be a representative~~
6 ~~of the university of Rhode Island graduate school of oceanography and the college of resources~~
7 ~~development, one of whom may be a representative of the Sea Grant National College Program,~~
8 ~~one of whom may be a representative of the army corps of engineers, one of whom may be a~~
9 ~~representative of the federal environmental protection agency's Narragansett Bay laboratory, one~~
10 ~~of whom shall be a representative of the coastal resources management council, one of whom may~~
11 ~~be the director of the department of environmental management; one of whom may be a member~~
12 ~~of the Rhode Island Marine Trade Association and one of whom may be a representative of a~~
13 ~~regional environmental group. The coastal resources management council shall have the authority~~
14 ~~to appoint such additional members to the advisory committee as is deemed necessary or advisable~~
15 ~~by the advisory committee or the council. It shall be the responsibility of the committee to advise~~
16 ~~the coastal resources management council on environmental coastal resources management issues~~
17 ~~relating to dredging and permitting related thereto, including, but not limited to, those issues~~
18 ~~defined in §§ 46-23-18.1—46-23-18.3, inclusive.~~

19 ~~(e) The council shall have the authority to form committees of other advisory groups as~~
20 ~~needed from both its own members and others.~~

21 ~~**46-23-2.1. Members—Term of office—Vacancies.**~~

22 ~~(a)(1) Subject to the provisions of § 46-23-2, all members shall serve until their successors~~
23 ~~are appointed and qualified.~~

24 ~~(2) Term limits on the coastal resources management council shall be determined by the~~
25 ~~governor as follows: Two (2) appointees shall serve an initial term of three (3) years and shall be~~
26 ~~eligible for reappointment in accordance with this section; two (2) appointees shall serve an initial~~
27 ~~term of two (2) years and shall be eligible for reappointment in accordance with this section; and~~
28 ~~two (2) appointees shall serve an initial term of one year and shall be eligible for reappointment in~~
29 ~~accordance with this section.~~

30 ~~(3) After the expiration of the terms of all initial members pursuant to this subsection,~~
31 ~~succeeding appointments shall be for a term of three (3) years, and during the month of January,~~
32 ~~the governor shall appoint, with the advice and consent of the senate, a member to succeed the~~
33 ~~member whose term will then next expire for a term of three (3) years commencing on the first day~~
34 ~~of February next following and until a successor is named and qualified.~~

1 ~~(b) The members are eligible for successive appointments.~~

2 ~~(c) Elected or appointed municipal officials shall hold seats on the coastal resources~~
3 ~~management council, only so long as they remain in their elected or appointed office.~~

4 ~~(d) A vacancy other than by expiration shall be filled in the manner of the original~~
5 ~~appointment but only for the unexpired portion of the term. Any person appointed to fill said~~
6 ~~vacancy shall complete the unexpired term and shall then be eligible for reappointment pursuant to~~
7 ~~this section. The governor shall have the power to remove their appointee for just cause.~~

8 **46-23-3. Oath of members.**

9 Each appointed member of the council, before entering upon his or her duties, shall take
10 an oath to administer the duties of his or her office faithfully and impartially, and the oath shall be
11 filed in the office of the secretary of state.

12 **46-23-4. Officers of the council—Quorum and vote required for action.**

13 The governor shall select from the appointed members a chairperson and vice chairperson.
14 ~~The coastal resources management council shall thereupon select a secretary from among its~~
15 ~~membership or staff. The council may engage staff, including legal counsel, as it deems necessary.~~
16 ~~A quorum shall consist of six (6) members of the council provided, however, for the council~~
17 ~~appointed pursuant to § 46-23-2(b) a quorum shall consist of four (4) members of the council. A~~
18 ~~majority vote of those present shall be required for action.~~

19 **46-23-4.1. Executive director of coastal resources management.**

20 The governor shall appoint, with the advice and consent of the senate, an executive director
21 of coastal resources management who shall be an employee of the council and who shall not be a
22 member of the council. The executive director shall coordinate and liaison with the director of the
23 department of environmental management, and the executive director's staff shall be at the same
24 staff level as the other executive directors, and the executive director shall work directly with the
25 other division leaders. The executive director of coastal resources management shall be in the
26 unclassified service. The primary duty and responsibility of the executive director shall be to
27 continue planning for and management of the resources of the state's coastal region.

28 **46-23-5. Expenses of members.**

29 ~~(a) The members of the council and the chairperson shall not be compensated for their~~
30 ~~service on the board, but the members and chairperson shall be reimbursed for their actual expenses~~
31 ~~necessarily incurred in the performance of their duties.~~

32 ~~(b) [Deleted by P.L. 2005, ch. 117, art. 21, § 34.]~~

33 **46-23-12. Representation from coastal communities.**

34 Upon the expiration of a term of a member appointed by the governor, as an appointed or

1 ~~elect~~ed official of local government from a coastal municipality as set out in § 46-23-2, the governor
2 shall appoint an appointed or elected official of a coastal municipality which, at the time of the
3 governor's appointment, has no appointed or ex officio representation on the council.

4 **46-23-20.1. Hearing officers — Appointment — Compensation — Subcommittee.**

5 (a) ~~The governor, with the advice and consent of the senate, shall appoint two (2) hearing~~
6 ~~officers who shall be attorneys at law, who, prior to their appointment, shall have practiced law for~~
7 ~~a period of not less than five (5) years for a term of five (5) years; provided, however, that the initial~~
8 ~~appointments shall be as follows: one hearing officer shall be appointed for a term of three (3) years~~
9 ~~and one hearing officer shall be appointed for a term of five (5) years. The appointees shall be~~
10 ~~addressed as hearing officers.~~

11 (b) ~~The governor shall designate one of the hearing officers as chief hearing officer. The~~
12 ~~hearing officers shall hear proceedings as provided by this section, and the council, with the~~
13 ~~assistance of the chief hearing officer, may promulgate such rules and regulations as shall be~~
14 ~~necessary or desirable to effect the purposes of this section.~~

15 (c) ~~A hearing officer shall be devoted full time to these administrative duties, and shall not~~
16 ~~otherwise practice law while holding office nor be a partner nor an associate of any person in the~~
17 ~~practice of law.~~

18 (d) ~~Compensation for hearing officers shall be determined by the unclassified pay board.~~

19 (e) ~~Whenever the chairperson of the coastal resources management council or, in the~~
20 ~~absence of the chairperson, the commissioner of coastal resources makes a finding that the hearing~~
21 ~~officers are otherwise engaged and unable to hear a matter in a timely fashion, he or she may~~
22 ~~appoint a subcommittee which will act as hearing officers in any contested case coming before the~~
23 ~~council. The subcommittee shall consist of at least one member; provided, however, that in all~~
24 ~~contested cases an additional member shall be a resident of the coastal community affected. The~~
25 ~~city or town council of each coastal community shall, at the beginning of its term of office, appoint~~
26 ~~a resident of that city or town to serve as an alternate member of the aforesaid subcommittee should~~
27 ~~there be no existing member of the coastal resources management council from that city or town~~
28 ~~available to serve on the subcommittee. Any member of the subcommittee actively engaged in~~
29 ~~hearing a case shall continue to hear the case, even though his or her term may have expired, until~~
30 ~~the case is concluded and a vote taken thereon. Hearings before subcommittees shall be subject to~~
31 ~~all rules of practice and procedure as govern hearings before hearing officers.~~

32 **46-23-20.2. Clerk.**

33 ~~The commissioner of coastal resources or his or her designee shall serve as clerk to the~~
34 ~~hearing officers. The clerk shall have general charge of the office, keep a full record of proceedings,~~

1 ~~file and preserve all documents and papers, prepare such papers and notices as may be required,~~
2 ~~and perform such other duties as required. The commissioner shall have the power to issue~~
3 ~~subpoenas for witnesses and documents and to administer oaths in all cases before any hearing~~
4 ~~officer or pertaining to the duties of his or her office.~~

5 **46-23-20.3. Prehearing procedure.**

6 (a) ~~Prior to the commencement of any hearing, the hearing officer may in his or her~~
7 ~~discretion direct the parties or their attorneys to appear before him or her for such conferences as~~
8 ~~shall be necessary. At the conferences, the hearing officer may order any party to file, prior to the~~
9 ~~commencement of any formal hearing, exhibits that the party intends to use in the hearing, and the~~
10 ~~names and addresses of witnesses that the party intends to produce in its direct case, together with~~
11 ~~a short statement of the testimony of each witness. Following entry of an order, a party shall not be~~
12 ~~permitted, except in the discretion of the hearing officer, to introduce into evidence, in the party's~~
13 ~~direct case, exhibits which are not filed in accordance with the order. At the conference, the hearing~~
14 ~~officer may designate a date before which he or she requires any party to specify what issues are~~
15 ~~conceded, and further proof of conceded issues shall not be required. The hearing officer shall also~~
16 ~~require the parties to simplify the issues, to consider admissions of fact and of documents which~~
17 ~~will avoid unnecessary proof, and to limit the number of expert witnesses. The hearing officer shall~~
18 ~~enter an order reciting the concessions and agreements made by the parties, and shall enter an order~~
19 ~~on such other matters as are pertinent to the conduct of the hearing, and unless modified, the hearing~~
20 ~~shall be conducted by the order.~~

21 (b) ~~The hearing officer may also order the parties to file, prior to the commencement of~~
22 ~~any hearing, the testimony of any or all of their respective witnesses, and to submit the testimony~~
23 ~~to the hearing officer and the opposing party or the opposing counsel by such date as the hearing~~
24 ~~officer shall determine. The witness shall testify under oath, and all of the testimony shall be in a~~
25 ~~question and answer format. Save for good cause shown, said testimony shall be the direct~~
26 ~~examination of the witness; provided, however, that the witness shall be available at the hearing~~
27 ~~for cross-examination by the opposing party or opposing counsel.~~

28 (c) ~~The council, with the assistance of the chief hearing officer, shall promulgate, by~~
29 ~~regulation, such other prehearing procedures and/or hearing procedures as deemed necessary,~~
30 ~~including the use of portions of the superior court civil rules of discovery where such are not~~
31 ~~inconsistent with the applicable provisions of the Administrative Procedures Act, chapter 35 of title~~
32 ~~42.~~

33 **46-23-20.4. Hearings — Orders.**

34 (a) ~~Subject to the provisions of this chapter, every hearing for the adjudication of a violation~~

1 ~~or for a contested matter shall be held before a hearing officer or a subcommittee. The chief hearing~~
2 ~~officer shall assign a hearing officer to each matter not assigned to a subcommittee. After due~~
3 ~~consideration of the evidence and arguments, the hearing officer shall make written proposed~~
4 ~~findings of fact and proposed conclusions of law which shall be made public when submitted to the~~
5 ~~council for review. The council may, in its discretion, adopt, modify, or reject the findings of fact~~
6 ~~and/or conclusions of law; provided, however, that any modification or rejection of the proposed~~
7 ~~findings of fact or conclusions of law shall be in writing and shall state the rationales therefor.~~

8 (b) ~~The director of the department of environmental management and the coastal resources~~
9 ~~management council shall promulgate such rules and regulations, not inconsistent with law, as to~~
10 ~~assure uniformity of proceedings as applicable.~~

11 ~~**46-23-20.5. Ex parte consultations.**~~

12 ~~Council members shall have no communication directly or indirectly, with a hearing officer~~
13 ~~relating to any issue of fact or of law on any matter then pending before the hearing officer.~~

14 ~~**46-23-20.6. Oaths — Subpoenas — Powers of hearing officers.**~~

15 ~~The hearing officers are hereby severally authorized and empowered to administer oaths,~~
16 ~~and the hearing officers, in all cases of every nature pending before them, are hereby authorized~~
17 ~~and empowered to summon and examine witnesses and to compel the production and examination~~
18 ~~of papers, books, accounts, documents, records, certificates and other legal evidence that may be~~
19 ~~necessary or proper for the determination and decision of any question before or the discharge of~~
20 ~~any duty required by law of the hearing officer. All subpoenas and subpoena duces tecum shall be~~
21 ~~signed by a hearing officer or the commissioner of coastal resources, and shall be served as~~
22 ~~subpoenas are served in civil cases in the superior court; and witnesses so subpoenaed shall be~~
23 ~~entitled to the same fees for attendance and travel as are provided for witnesses in civil cases in the~~
24 ~~superior court. In cases of contumacy or refusal to obey the command of the subpoena so issued,~~
25 ~~the superior court shall have jurisdiction upon application of the council with proof by affidavit of~~
26 ~~the fact, to issue a rule or order returnable, in not less than two (2) nor more than five (5) days,~~
27 ~~directing the person to show cause why he or she should not be adjudged in contempt. Upon return~~
28 ~~of such order, the justice, before whom the matter is brought for hearing, shall examine under oath~~
29 ~~the person, and the person shall be given an opportunity to be heard, and if the justice shall~~
30 ~~determine that the person has refused without reasonable cause or legal excuse to be examined or~~
31 ~~to answer legal or pertinent questions, he or she may impose a fine upon the offender or forthwith~~
32 ~~commit the offender to the adult correctional institutions, there to remain until he or she submits to~~
33 ~~do the act which he or she was so required to do, or is discharged according to law.~~

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

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LC006023
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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 merge the coastal resources management council with the department of
2 environmental management and create the bureau of coastal resources management within the
3 department of environmental management.

4 This act would take effect upon passage.

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LC006023
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