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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: June 29, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 88.2-1 of the General Laws in Chapter 88.2 entitled "Traffic
2 tribunal" is hereby amended to read as follows:

3 **8-8.2-1. Establishment -- Rule-making authority -- Adjudication of violations. --** (a)

4 There is hereby established a traffic tribunal which shall be charged with the administration and
5 adjudication of traffic violations within its jurisdiction. The traffic tribunal shall be under the
6 supervision of the chief magistrate of the traffic tribunal, who shall be the administrative head of
7 the traffic tribunal and shall have the power to make rules for regulating practice, procedure and
8 business within the traffic tribunal. Pursuant to section 8-6-2, said rules shall be subject to the
9 approval of the supreme court. Such rules, when effective, shall supersede any statutory
10 regulation in conflict therewith. Any person who has been a member of the bar of Rhode Island
11 may be appointed chief magistrate of the traffic tribunal. The chief magistrate of the traffic
12 tribunal shall be appointed by the chief justice of the supreme court, with the advice and consent
13 of the senate, for a period of ten (10) years and until a successor is appointed and qualified.
14 Nothing contained herein shall be construed to prohibit the reappointment of the chief magistrate
15 for one or more ten (10) year terms subject to the advice and consent of the senate. Compensation
16 for the chief magistrate shall be equal to that of an associate judge of the district court.

17 (b) The judges and magistrates of the traffic tribunal shall hear and determine cases as
18 provided by law. No district court judge appointed pursuant to chapter 8 of this title shall be
19 assigned to perform duties of a judge or magistrate of the traffic tribunal under this chapter. The

1 chief magistrate of the traffic tribunal may assign a judge or magistrate who is authorized to hear
2 and decide cases in the traffic tribunal to serve as administrative judge or magistrate of the traffic
3 tribunal and the administrative judge or magistrate shall perform such administrative duties as
4 may be delegated to him or her by the chief magistrate. Once assigned to the position, the
5 administrative judge or magistrate shall hold said administrative position for the remainder of his
6 or her respective term as a judge or magistrate of the traffic tribunal.

7 (c) (i) Those judges of the administrative adjudication court in active service on July 1,
8 1999 shall serve within the traffic tribunal. Whenever the total number of judges and magistrates
9 in the traffic tribunal exclusive of the chief magistrate shall be less than seven (7), the chief
10 justice of the supreme court, with the advice and consent of the senate, may, as needed, assign a
11 duly qualified member of the bar of this state to act as a magistrate to fill such vacancy and shall
12 submit his or her name to the senate for confirmation. In the event of a vacancy in the position of
13 chief magistrate, the chief justice of the supreme court shall appoint a successor in accordance
14 with subsection 8-8.2-1(a). Any magistrate assigned under this section shall serve a term of ten
15 (10) years and until a successor is appointed and qualified, and shall be in the unclassified service
16 of the state. Nothing herein shall be construed to prohibit the assignment of a magistrate to more
17 than one such term, subject to the advice and consent of the senate. Compensation for any such
18 magistrate shall be determined by the chief magistrate of the traffic tribunal subject to
19 appropriation by the general assembly but in no event shall the compensation be equal to or more
20 than that of an associate judge of the district court. Magistrates of the traffic tribunal shall
21 participate in the state retirement system in the same manner as all members of the unclassified
22 service.

23 (ii) If any judge of the traffic tribunal shall retire, or a vacancy becomes available
24 through death, disability or any other reason, the position shall be filled by a magistrate consistent
25 with the provisions of this section.

26 (d) Each judge and magistrate of the traffic tribunal shall devote full time to his or her
27 judicial duties, except as may be otherwise provided by law. He or she shall not practice law
28 while holding office, nor shall he or she be a partner or associate of any person in the practice of
29 law.

30 (e) Judges and magistrates of the traffic tribunal shall be subject to the provisions of R.I.
31 Const. Art. XI; to the code of judicial conduct or successor code promulgated by the supreme
32 court of this state, to the jurisdiction of the Commission on Judicial Tenure and Discipline in
33 accordance with chapter 16 of this title; and to the administrative authority and control of the
34 chief justice of the supreme court in accordance with chapter 15 of this title, except that sections

1 8-15-3 and 8-15-3.1 shall not apply to judges ~~and/or magistrates~~ of the traffic tribunal.

2 (f) The traffic tribunal shall be a tribunal of record and shall have a seal with such words
3 and devices as it shall adopt.

4 (g) Judges and magistrates of the traffic tribunal shall have the power to administer oaths
5 and affirmations.

6 (h) Administrative/supervisory officials. - (1) There shall be an assistant to the
7 administrative magistrate of the traffic tribunal who shall be appointed by and serve at the
8 pleasure of the chief magistrate and who shall perform such clerical and administrative duties as
9 may be assigned to him or her by the chief magistrate of the traffic tribunal and the administrative
10 judge or magistrate of the traffic tribunal. The assistant to the administrative judge or magistrate
11 shall have the power to administer oaths and affirmations within the state.

12 (2) There shall be a clerk of the traffic tribunal who shall be appointed by and serve at
13 the pleasure of the chief magistrate of the traffic tribunal; provided, however, that, effective July
14 1, 1999, the first clerk of the traffic tribunal shall be that person holding the position of
15 administrator/clerk of the administrative adjudication court as of May 1, 1998, and that person
16 shall hold office for the balance of a term of twelve (12) years which began on September 1,
17 1992, without the necessity of appointment by the governor or advice and consent of the senate.
18 The clerk of the traffic tribunal shall exercise his or her functions under the direction and control
19 of the chief magistrate of the traffic tribunal and the administrative judge or magistrate of the
20 traffic tribunal. The clerk of the traffic tribunal shall have the power to administer oaths and
21 affirmations within the state.

22 (i) Clerical Personnel/Court Recorders. - (1) The chief magistrate of the traffic tribunal
23 shall appoint deputy clerks and assistance clerks for the traffic tribunal to serve at his or her
24 pleasure. All such clerks may administer oaths and affirmations within the state.

25 (2) The chief magistrate of the traffic tribunal shall appoint sufficient court recorders to
26 enable all proceedings to be recorded by electronic means and who shall assist in such other
27 clerical duties as may be prescribed from time to time by the chief magistrate of the traffic
28 tribunal.

29 (3) The chief magistrate of the traffic tribunal shall employ such clerical assistants in
30 addition to deputy clerks as may be required in the traffic tribunal to perform clerical duties.

31 SECTION 2. Section 8-15-3.1 of the General Laws in Chapter 815 entitled "Court
32 Administration" is hereby amended to read as follows:

33 **8-15-3.1. Chief justice -- Power to assign magistrates.** -- The Chief justice of the
34 supreme court has the power to assign any magistrate of the superior court, family court, ~~and/or~~

1 district court, or traffic tribunal to any court or tribunal of the unified judicial system with the
2 consent of the presiding justice, ~~and/or~~ chief judge, and/or chief magistrate of the relevant courts.
3 When a magistrate is so assigned, he or she shall be vested, authorized, and empowered with all
4 the powers belonging to the magistrates of the court to which he or she is specially assigned.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS

1 This act would give the chief justice of the supreme court the power to assign any
2 magistrate of the superior court, family court, district court, or traffic tribunal to any court of the
3 unified judicial system with the consent of the presiding justice, chief judge, and/or chief
4 magistrate of the relevant courts.

5 This act would take effect upon passage.

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