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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO THE CITY OF WARWICK - SEWER AUTHORITY

Introduced By: Senator William A. Walaska

Date Introduced: June 04, 2014

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 254 of the 1962 Public Laws entitled "An Act to Create A Sewer
2 Authority for the City of Warwick and to Authorize Said City to Plan, Construct, Finance,
3 Operate and Maintain Sewage Works", as from time to time amended, is hereby further amended
4 to read as follows:

5 **Section 1. Authority to plan, etc., sewage works; definitions; bonding authorized;**
6 **sewer charge, assessment authorized.**

7 The city of Warwick is authorized and empowered, in accordance with the provisions of
8 this act, to plan, lay out, construct, finance, operate and maintain sewage works for a part or the
9 whole of its territory and for such purposes to take by eminent domain or otherwise any lands,
10 water rights, rights-of-way, or easements, public or private, in said city necessary for
11 accomplishing any purpose mentioned in this act. Such sewage works may include sewers and
12 sewer service connections, pumping stations, sewage treatment works, sewage disposal works,
13 and other works essential to the proper collection, treatment, and disposal of the sewage of said
14 city.

15 As used in this act, unless the context otherwise requires:

16 "Authority" means the sewer authority authorized by this act.

17 "Cesspool" means any buried chamber other than an on-site wastewater treatment system
18 (OWTS), including, but not limited to, any metal tank, perforated concrete vault or covered
19 hollow or excavation, which receives discharges of sanitary sewage from a building for the

1 [purpose of collecting solids and discharging liquids to the surrounding soil.](#)

2 "City" means the City of Warwick.

3 "City Council" means the city council of the City of Warwick.

4 "Common sewer" means a sewer in which all abutters have equal rights of entrance and
5 use.

6 ["Connect Capable" means any parcel containing an inhabitable dwelling located within](#)
7 [the authority's sewer service area, abutting a main sewer.](#)

8 "Cooling water" shall include the clean waste-water from air conditioning, industrial
9 cooling, condensing and similar apparatus and from hydraulically powered equipment. In general,
10 cooling water will include only water which is sufficiently clean and unpolluted to admit of being
11 discharged, without treatment or purification, into any natural open stream or watercourse without
12 offense.

13 "Force Main" means a sewer wherein sewage is moved by pressure.

14 "Highways" means any state or other highway and any public street, alley, park, parkway,
15 driveway, bridge or public place.

16 ["Industrial wastes" shall include the liquid or water carried wastes of any industrial](#)
17 [process not clearly included within the definitions of sanitary sewage, storm water, cooling water](#)
18 [or seepage or subsoil drainage herein. In general waste-waters carrying any quantity of oils,](#)
19 [grease, fats, abrasives, chemicals, residues of manufacturing processes, wastes from commercial](#)
20 [food preserving or canning, from slaughter houses or meat processing plants, and similar](#)
21 [substances, whether dissolved, in suspension, or mechanically carried by water, shall be](#)
22 [considered as industrial wastes.](#)

23 "Land" means and includes any land, including ~~building~~ [buildings](#) and other
24 improvements thereon, estate, riparian or other ~~right~~ [rights](#), ~~easement~~ [easements](#), ~~interest~~ [interests](#)
25 or ~~waterway~~ [waterways](#).

26 "Lateral sewer" means a sewer which does not receive the sewage from any other
27 common sewer.

28 "Main sewer" means a sewer into which the sewage from two or more sub-main sewers is
29 discharged.

30 "Mayor" means the mayor of the City of Warwick.

31 ["On-Site Wastewater Treatment System" \(OWTS\) means any system of piping, tanks,](#)
32 [dispersal areas, alternative toilets or other facilities designed to function as a unit to convey, store,](#)
33 [treat or disperse wastewater by means other than discharge into a public wastewater system.](#)

34 ["Parcel" means a part, portion or tract of land and whatever is erected, attached, growing](#)

1 upon or affixed to the land.

2 "Quorum" means a majority of the members of the authority.

3 "Sewage" shall mean waste-water, water carried wastes, or a combination of them,
4 discharged into and conveyed by sewers or intended or customarily so discharged and conveyed.
5 Sewage may be further classified as sanitary or industrial ~~follows:~~

6 "Sanitary sewage" shall mean the common waste-water and water carried wastes from
7 human dwellings and from toilet and lavatory fixtures, kitchen, laundries and similar facilities of
8 business and industrial buildings. In general, sanitary sewage shall not include storm water from
9 roofs, yards, streets or open spaces, water from land surfaces or brooks, clean waste or overflows
10 from springs, wells, or subsoil drainage, large volumes of clean water from air conditioning or
11 other cooling or condensing facilities, clean waste-water from hydraulically operated
12 contrivances and those wastes included within the definition of "industrial waste" ~~next following.~~

13 ~~"Industrial wastes" shall include the liquid or water carried wastes of any industrial~~
14 ~~process not clearly included within the definitions of sanitary sewage, storm water, cooling water~~
15 ~~or subsoil drainage herein. In general, waste waters carrying any quantity of oils, grease, fats,~~
16 ~~abrasives, chemicals, residues of manufacturing processes, wastes from commercial food~~
17 ~~preserving or canning, from slaughter houses or meat processing plants, and similar substances,~~
18 ~~whether dissolved, in suspension; or mechanically carried by water, shall be considered as~~
19 ~~industrial wastes.~~

20 "Seepage" or "subsoil drainage" shall include water from the soil percolating into subsoil
21 drains and through foundation walls, basement floors, or underground pipes or from similar
22 sources.

23 "Sewage works" means all constructions for collection, transportation, pumping,
24 treatment and final disposition of sewage.

25 "Sewer assessment" means the rate or charge for the construction of the sewers and sewer
26 systems set by a method(s) adopted by the authority that bears a reasonable relation to the costs of
27 construction to the city and authority of the service rendered to the users, including, but not
28 limited to, costs related to engineering, inspections, land purchases, paving, and financing.

29 "Sewer service connection" means a pipe and any associated appurtenances to convey
30 sewage and wastes from the property line of a parcel ~~a building~~ to a common sewer.

31 "Storm water" shall include the runoff or discharge of rain and melted snow or other
32 clean water from roofs, surfaces of public or private ~~lands~~ parcels or elsewhere. For most
33 purposes within the scope of this ordinance, storm water shall not include the flow of any natural
34 brook, rivulet or stream even if the source of such water is storm runoff from ~~land~~ parcels, land or

1 other property once that runoff has entered the channel of such brook or natural watercourse. In
2 general, storm water shall include only water which is sufficiently clean and unpolluted to admit
3 of being discharged, without treatment or purification, into any natural open stream or
4 watercourse without offense.

5 "Sub-main sewer" means a sewer into which the sewage from two or more lateral sewers
6 is discharged.

7 "Undeveloped" means any parcel of land which has not been built upon or otherwise
8 lacks inhabitable buildings or structures.

9 "User charges" means rates, charges and/or fees levied on the users of the wastewater
10 collection and treatment system related to the costs of operation, maintenance, repair and
11 replacement of the wastewater collection and treatment system.

12 The City of Warwick may provide for the construction of sewers and for other sewage
13 works for said city and may raise funds therefor by borrowing or otherwise, and for that purpose
14 may issue bonds or notes for the city in accordance with the provisions hereinafter stated or under
15 other authority.

16 The sewer authority shall provide that annual charges shall be made upon the owners of
17 the ~~lands~~ parcels using the ~~sewer~~ sewage works and that sewer assessments shall be made upon
18 the owners of ~~lands~~ parcels for which the use of sewage works is available. The sewer authority
19 may further provide that connect capable charges shall be made upon ~~property~~ parcel owners
20 whose ~~property~~ parcel is abutting on that portion of any highway in which a common sewer is
21 laid, while said parcel ~~property~~ remains unconnected to the city's sewage works ~~system~~. The
22 receipts from annual charges, sewer assessments and connect capable charges shall be
23 appropriated for and applied to the payment of the charges and expenses incident to the planning,
24 construction, financing, operation, maintenance, repair, renewal and replacement costs of the
25 sewage works, and to the payment of principal and interest costs for any bonds or notes issued or
26 outstanding for the sewage works, and any deficiency of said receipts in any year for said
27 purposes shall be made by the city tax pending the authority in the next fiscal year eliminating
28 said deficiency and reimbursing the city for any moneys advanced through the increasing of the
29 rates established for annual charges and/or connect capable charges.

30 **Section 2. Sewer authority.**

31 There shall be a bi-partisan sewer authority for the city consisting of five (5) qualified
32 electors of the city, not more than three (3) of whom shall be members of the same political party,
33 to be appointed by the mayor subject to confirmation by the city council. It shall be the purpose
34 of the sewer authority to provide wastewater collection and treatment services to the city of

1 Warwick in a cost effective and environmentally sound manner. ~~Upon passage of this act,~~The
2 mayor, ~~within eighty (80) days thereafter,~~ shall appoint the five (5) members of the authority, two
3 (2) of each from lists of not less than three (3) ~~ten (10)~~ names submitted by the respective
4 chairman of the city political committees and one (1) member without party designation; one (1)
5 member to hold office until one (1) year from the first day of February preceding said
6 appointment, one (1) member to hold office until two (2) years from the first day of February
7 preceding said appointment, one (1) member to hold office until three (3) years from the first day
8 of February preceding said appointment, one (1) member to hold office until four (4) years from
9 the first day of February preceding said appointment, and one (1) member to hold office until five
10 (5) years from the first day of February preceding said appointment, and ~~in~~ in the month of
11 January preceding the expiration of the term of each of ~~said~~ the authority's members, the mayor
12 shall appoint one (1) member to succeed the member whose term will next expire to hold office
13 for the term of five (5) years from the first day of February next after his appointment and until
14 his successor is appointed and qualified in the same manner as provided in the original
15 appointment for such term. In case any person appointed as a member of said authority shall
16 decline to serve or neglect to qualify within ten (10) days after his appointment, or a vacancy
17 shall occur in said authority for any other cause, the mayor, within thirty (30) days, shall appoint
18 some person to fill such vacancy for the unexpired term in the same manner as provided in the
19 original appointment for such term. A person holding any other office of emolument or profit
20 under the government of the city shall not be eligible to membership on the authority and if any
21 member of said authority shall accept any such office or shall remove from the city, his place on
22 the authority shall immediately become vacant. The members of the authority shall be severally
23 sworn to the faithful performance of their duties under this act. They shall elect from among their
24 members a chairman and a secretary at the first meeting after the organization and upon the
25 appointment of any new member for a full term and shall fill any vacancy that may occur in either
26 office from any cause. A majority of the members of the authority shall constitute a quorum for
27 the transaction of business. The mayor may remove any member of the authority from office for
28 cause shown after a hearing before the city council of which such member shall be given seven
29 (7) days' notice in writing.

30 The mayor, with the advice and consent of the city council, shall fix the compensation of
31 the members of the authority and shall annually appropriate a sum sufficient to pay the same
32 together with a sum sufficient for office expenses.

33 The authority may adopt by-laws governing the transaction of business by an affirmative
34 vote of at least four (4) members, but no such by-laws shall authorize any action by the authority

1 except by the affirmative a majority vote of at least three (3) members thereof and with the advice
2 and consent of the mayor.

3 ~~The authority appointed by the provisions of this section, until the remaining sections of~~
4 ~~this act take effect upon acceptance by referendum as further provided herein, shall have the~~
5 ~~following interim powers and duties:~~

6 The authority shall review the sewer survey (Facilities Plan) in order to develop
7 procedures for the implementation of the general sewer program and to conduct preliminary
8 studies in order to execute the administrative details contained in this act.

9 Such activities may include:

10 (a) The planning and programming of the various phases of the sewer project, and

11 (b) A review of the procedures of various financing programs in terms of charges and
12 assessments to be instituted upon the commencement of the construction of sewers, and

13 (c) An establishment and exercise of a public information program. The members of the
14 authority and their duly authorized agents may enter upon any premises within the city to
15 examine, inspect or survey the same, whenever necessary for the performance of their duties
16 under this act.

17 **Section 3. Preparation of plans; public hearing; reports; specifications; estimates.**

18 Without in any way limiting the authority of ~~said~~ the city to provide sewers anywhere within the
19 territorial limits of the city, the sewer authority, with the advice and consent of the mayor, may
20 authorize the construction, maintenance, and operation of sewage works from time to time in
21 different areas or sections of the city. The authority shall proceed to prepare construction plans,
22 specifications and cost estimates of sewage works for the city, or any portion thereof, allowing
23 the streets and highways in which the sewers will be placed and the location of other sewage
24 works to be placed outside of the street and highway limits. The authority shall also prepare, or
25 have prepared, a report describing the proposed sewage works and a complete estimate of costs
26 therefor.

27 When such plans, specifications, report and estimates are completed or at other times in
28 the development stages, ~~they~~ the authority shall cause to be held a public hearing pursuant to the
29 authority's rules and procedures. Notice of the hearing shall be published in a public newspaper
30 having circulation in the City of Warwick at least five (5) days prior to the hearing.

31 The finance director, with the consent of the mayor and a requisition approved ~~signed~~ by
32 ~~a majority of~~ the authority and signed by the authority's chairman, shall appropriate a sum
33 sufficient to pay the cost of preparing the plans, specifications, report and estimates provided for
34 in this section, to be expended by the authority, and to be paid by the city treasurer upon vouchers

1 approved by the mayor and ~~a majority of~~ the authority and the finance director, and the city
2 treasurer shall repay the treasury any sums so expended whenever sewer bonds or notes are
3 issued as hereinafter provided.

4 In the preparation of plans, specifications, reports and estimates provided in this section,
5 the authority may, with the consent of the mayor, from time to time employ and fix the
6 compensation of such consulting engineers, legal advisers, and other professional experts, and
7 such other employees as it may find necessary and may discontinue the employment of any or all
8 such employees.

9 **Section 4. Construction of works; contracts; operation and maintenance of works;**
10 **employment of professionals; records; minutes.**

11 Upon the completion of a public hearing of the plans, specifications, reports and
12 estimates as provided in section 3 hereof, the sewer authority, with the advice and consent of the
13 mayor, shall proceed as soon as may be practicable to carry out construction work contemplated
14 by the plans aforesaid. The authority, with the advice and consent of the mayor, shall be vested
15 with full authority to construct sewage works for ~~said the~~ city ~~and~~ to make for and on behalf of
16 the city all necessary contracts for construction and for the purchase of property.⁵ The authority
17 may purchase any Supplies supplies and equipment for the construction, operation and
18 maintenance of any sewage works. All work, supplies, materials and equipment required by the
19 authority in connection with the construction of the sewage works shall be procured by contract
20 made pursuant to and in manner required by the provisions hereof. For all contracts involving
21 more than five thousand dollars (\$5,000), except in the case of legal services, the services of
22 consulting engineers and other professional services, ~~said the~~ authority shall not issue purchase
23 orders without obtaining the prior consent of the mayor and thereafter filing a monthly report of
24 such contracts and purchase orders with the mayor and city council. The operation, maintenance
25 and ~~reparation~~ repair of ~~said the~~ sewage works shall be vested in the authority.

26 The authority, with the advice and consent of the mayor, may from time to time employ
27 and fix the compensation of such professional engineers, legal advisors, surveyors, draftsmen,
28 clerks, and other employees as it may find necessary for the construction, operation, maintenance
29 and repair of ~~said the~~ sewage works, and may at any time discontinue the employment of any or
30 all such employees subject to compliance with the rules and regulations of the city's personnel
31 administration. The authority shall cause to be kept a record of all its accounts and proceedings
32 and an accurate account of all its transactions, and shall annually, and at such other times as
33 directed by the mayor or the city council, report to the mayor and city council its doings and
34 make a report in detail of its financial accounts. The authority shall keep minutes of all its

1 proceedings showing the vote of each member upon each question or if such member be absent or
2 fails to vote, indicating such fact; and shall keep records of its examinations and of other official
3 actions, all of which shall be filed and shall be a public record.

4 **Section 5. Reserved.**

5 **Section 6. Reserved.**

6 **Section 7. Reserved.**

7 **Section 8. Custody and accounting of funds raised by bonding or notes.**

8 The proceeds arising from the sale of any bonds or notes issued under authority of this act
9 shall be delivered to the city treasurer and shall be kept ~~by him~~ in separate accounts and shall be
10 expended only for the purposes and in the manner prescribed by this act, provided that the
11 proceeds of the sale of any issue of serial bonds or notes shall first be applied to the payment of
12 such temporary notes as may have been issued in anticipation of such issue, and provided further
13 that any premium received over the par value of the serial bonds or notes of any issue, less the
14 cost of preparing, issuing and marketing such serial bonds or notes shall be applied to the
15 payment of the principal of the first bonds or notes of such issue first to mature.

16 **Section 9. Apportionment of costs; sewer assessments and charges; enforcement of**
17 **charges and assessments.**

18 The authority, with the advice and consent of the mayor, shall prescribe just and equitable
19 sewer assessment rates on account of the construction costs, to be levied against owners of
20 ~~property~~ parcels abutting on that portion of any highway in which a common sewer is laid under
21 this act and also rates of annual and connect capable charges on account of operation and
22 maintenance costs renewal and replacement funding and the cost of principal and interest for any
23 bonds or notes issued for sewage works, to be levied against owners of ~~property-parcels~~ which ~~is~~
24 are or could be connected to a common sewer.

25 Such assessments, annual and connect capable charges herein referred to shall be paid by
26 every ~~property parcel~~ owner ~~or institution~~ whose parcel ~~property~~ is or can be connected to the
27 city sewage works, in a manner prescribed by the authority, with the approval of the mayor and
28 the finance director.

29 Notwithstanding the foregoing, the authority ~~shall have discretion to~~ may defer sewer
30 assessments against parcels ~~of land~~ that are undeveloped or not developed to the extent
31 permissible by city zoning ordinances provided that such ~~parcel~~ parcels remain subject to
32 assessment upon the ~~earlier to occur of either, (i) development~~ or redevelopment of such ~~parcel~~
33 parcels in accordance with the authority's rules and regulations, of land; or (ii) twenty (20) years
34 ~~from the date of initial assessment. Similarly, the~~ The authority ~~shall have discretion to~~ may defer

1 sewer assessments against any parcels, ~~of land~~ if the owner of ~~such a~~ parcel, ~~within seven (7)~~
2 ~~years of the date of the sewer assessment~~, has installed a new OWTS septic system within twenty
3 (20) years of sewer service initially becoming operational, provided that such parcel shall remain
4 subject to assessment and shall begin paying such assessment ~~at twenty (20)~~ least seven (7) years
5 from the date of the installation of the OWTS or upon connection to the sewer system, whichever
6 occurs first ~~initial assessment~~.

7 The sewer assessments ~~may shall~~ be determined by a method(s) adopted by the sewer
8 authority that assesses charges for use of the sewers and sewer systems in an amount that bears a
9 reasonable relation to the cost of construction to the city and authority of the service rendered to
10 the users, which method(s) may include, but is not limited to, ~~according to~~ the frontage along the
11 highway of each parcel of land abutting on a common sewer, or ~~according to~~ the area of such land
12 within a fixed depth from the highway, or ~~according~~ other alternative methods ~~to both such~~
13 ~~frontage and area~~. The sewer authority with the advice and consent of the mayor may, from time
14 to time, redetermine the rates fixed for sewer assessments, if construction costs warrants, and may
15 redetermine rates for annual and connect capable charges if costs so warrant.

16 The sewer assessments herein referred to shall be paid by every property parcel owner ~~or~~
17 ~~institution~~ whose property parcel is abutting on that portion of any highway in which a common
18 sewer is laid under this act or is connected to the city's sewage works. ~~In the case of property~~
19 ~~connected to the City's sewage works where that property is not abutting on any highway in~~
20 ~~which a common sewer is laid, the property will be assessed in the same manner as if the~~
21 ~~common sewer were abutting the highway to which the property is connected in a manner~~
22 ~~consistent with this Act.~~

23 Sewer assessments levied hereunder may be paid in as many as ~~twenty (20)~~ thirty (30)
24 annual installments in accordance with the terms of the loan secured for sewer construction, upon
25 application by the property parcel owner and approval of the sewer authority. In the case of
26 installment payments, interest at a rate not to exceed ~~four percent (4%) per annum for assessment~~
27 ~~in effect prior to June 30, 1998, and for assessments established thereafter~~ a maximum rate of
28 1.25% above the average interest rate the authority is charged on the loan ~~that is not to exceed~~
29 ~~nine percent (9%) per annum reasonably related to the interest rate charged to the city or sewer~~
30 ~~authority to borrow money used to fund the construction of the sewers~~ service rendered to the
31 users shall be charged annually on the unpaid balance of the total sewer assessment. Such annual
32 installment payments may be paid on a quarterly basis.

33 Sewer assessments shall be levied at a uniform rate based upon the final estimated cost of
34 constructing all sewers, sewer service connections and other sewage works belonging to the city.

1 Sewer assessment revenues shall be used for the payment of the principal and interest costs for
2 any bonds or notes issued for sewage works.

3 Annual charges shall be levied upon every property parcel owner ~~or institution~~ whose
4 property parcel is connected to the city's sewage system. The ~~change~~ charge will be computed
5 based upon water consumption or other factors deemed equitable by the sewer authority. The
6 annual charge ~~shall~~ should be set at a level sufficient to support operation and maintenance costs
7 of the sewer system and the wastewater treatment plant, the renewal and replacement fund and
8 the principal and interest for any bonds or notes issued for sewage works. The revenues to be
9 raised by annual charges will be reduced by revenues generated by sewer assessments and
10 connect capable fees.

11 Connect capable charges may be levied in lieu of annual charges upon every parcel
12 ~~property~~ owner ~~or institution~~ whose property parcel is abutting on that portion of any highway in
13 which a common sewer is laid while said property parcel is not connected to the aforementioned
14 ~~sewerage sewer~~ system, but is capable of doing so. Connect capable charges shall be established
15 by regulation. The charge will be established at a level determined by the sewer authority to
16 recover an equitable portion of the principal and interest for any bonds or notes issued for
17 ~~sewerage sewage~~ works and renewal and replacement funding, and shall be subject to consent by
18 the mayor and the Warwick city council.

19 The authority shall annually certify to the finance director and to the mayor all the
20 charges and sewer assessments made by it under the authority of this act. Each charge or
21 assessment made by ~~said~~ the authority pursuant to this act shall be a lien upon the parcels, lands,
22 buildings and improvements upon which it is made in the same way and manner as taxes assessed
23 on real estate, but such liens shall not expire until the charge or assessment with all interest, costs
24 and penalties thereon is paid in full, and, if the charge or assessment is not paid as required, it
25 shall be collected In the same manner that taxes assessed on real estate are by law collected. The
26 finance director, after receiving a list of charges or assessments under this act, shall forthwith, at
27 the expense of the authority, send to each person assessed or charged notice of the amount of his
28 assessment or charge. The notice shall substantially identify the person assessed, state the amount
29 of the assessment or charge and refer to the remedy available under section 19 of this act. The
30 notice shall be mailed postpaid and directed to the last known address of the person assessed. If
31 there are persons whose addresses are unknown, a similar notice covering the assessments against
32 such persons shall be published in a newspaper of general circulation in the city and such
33 published notice may be a single collective notice for all such persons. No irregularity in the
34 notice required by this section shall excuse the nonpayment of the assessment or charge or affect

1 its validity or any proceedings for the collection thereof as long as there is substantial compliance
2 with the provision hereof. No deficiency in the notice to the person assessed shall excuse the
3 nonpayment by others of the assessment or charges assessed against them or affect the validity
4 thereof or any proceedings for the collection thereof. The finance director shall without further
5 warrant collect such charges and assessments in the same manner as the regular taxes of the city
6 may be payable. Interest at the rate per annum fixed for nonpayment of city taxes shall be charged
7 and collected upon all overdue charges and assessments from the date they become payable until
8 paid, provided however, that the total overdue charge for nonpayment of installment of sewer
9 assessments shall be applied to past due installments and not the total assessment; and provided
10 further, that there shall be no penalty on installment assessments deferred by reason of income
11 subject to rules and regulations that the Warwick city council may prescribe by ordinance.

12 The authority with the advice and consent of the mayor may at any time ~~cancel~~ modify in
13 whole or in part any charge or assessment to the extent the authority determines such charge or
14 assessment to have been improperly imposed.

15 **Section 9.1 Renewal and replacement account.**

16 The city finance director shall establish in a separate account for renewal and
17 replacement. The purpose of the account is to provide for the future renewal or replacement of the
18 current and future physical assets of the wastewater treatment plant whose cost is in excess of ten
19 thousand dollars (\$10,000) with an economic life of at least five (5) years. The renewal and
20 replacement account will be funded annually through annual charges and connect capable fees, as
21 determined by the sewer authority, in an amount equal to total gross depreciation expense as
22 computed under generally accepted accounting principals, including the amortization of local and
23 nonlocal contributed capital or an alternative amount based on industry standards. Interest earned
24 on monies deposited in the renewal and replacement fund will be credited to the account.
25 Withdrawals from the account, subject to the aforementioned limitations of cost and economic
26 life, must be approved by the sewer authority.

27 **Section 10. Receipts from annual charges and assessments.**

28 The receipts from annual charges, sewer assessments and connect capable charges, as
29 provided for in section 9 of this act, should be separately accounted for by the finance director; at
30 the close of each fiscal year the city treasurer shall transfer from such funds to the treasury a sum
31 sufficient to repay the sums appropriated and paid from the treasury during the fiscal year then
32 close on account of the principal and interest of all borrowing for the purpose of this act and for
33 the payment of charges and expenses incident to the operation, maintenance, renewal and
34 replacement fund and repair of said sewage works or to the extension thereof. At the end of a

1 fiscal year, if the finance director determines that the revenues referred to above as well as prior
2 year fund balances were not sufficient to cover operation and maintenance costs, renewal and
3 replacement funding and principal and interest for any bonds or notes issued for sewage works,
4 thereby creating insufficient end of year balances, charge shall be adjusted in the next fiscal year
5 to assure sufficient balances in the sewer fund. If the receipts from said charges and assessments
6 amount in any year to more than will be required for the aforesaid purposes, the surplus shall be
7 added to the receipts of the next succeeding year.

8 **Section 11. Recovery of assessment charge by joint tenant, tenant in common, etc.,**
9 **from other tenant.**

10 Whenever a tenant by the entirety, or a joint tenant, or a tenant in common of any ~~land~~
11 parcel subject to a sewer charge or assessment under this act, shall pay the whole amount of such
12 sewer charge or assessment, such tenant ~~he~~ may recover from the other joint tenant or tenant in
13 common, as the case may be, such proportional part of such charge or assessment as the value of
14 the latter's interest in the ~~land~~ parcel bears to the aggregate value of such parcel ~~land~~, by
15 proceedings in the superior court for the county of Kent in the nature of an action of account as
16 provided in G.L. 1956, § 10-2-1 et seq., and in any acts in amendment thereof or in addition
17 thereto, and such action is hereby made available for the purposes of this section. The same shall
18 apply as between a tenant for life or years and the owner of the fee with respect to construction
19 assessments. Whenever the owner of the fee shall pay an annual charge, such owner ~~he~~ may
20 recover the amount so paid from the tenant in a similar action to the extent ~~[it]~~ is attributable to
21 the period of the tenancy. The provisions of this section shall not be construed to impair any other
22 right of action which the party paying such charge or assessment may have at law or in equity to
23 secure a contribution from the other parties having an interest in the parcel ~~land~~ subject to such
24 charge or assessment.

25 ~~Section 12. Appeal of assessment of irregularly, unusual land; assessment of lots at~~
26 ~~intersections of roads.~~

27 ~~The owner of a lot of land irregular in shape or which is unduly above or below grade or~~
28 ~~which for any reason is deemed to be inequitable assessed under this act, in the event such an~~
29 ~~assessment is made, may appeal to the sewer board of review as hereinafter provided in section~~
30 ~~[2-19] of this act. The authority, with the advice and consent of the mayor, may notwithstanding~~
31 ~~an appeal, omits own initiative, adjust the sewer assessment on such a lot or exempt such a lot~~
32 ~~from assessment.~~

33 ~~Where a lot is located at the intersection of two streets or highways in which sewers have~~
34 ~~been constructed, the sewer assessment on such lot shall be made only for the sewer in the street~~

1 ~~or highway in which the assessment would be greater.~~

2 ~~(P.L. 1962, ch. 254, § 12; P.L. 1991, ch. 86, § 12)~~

3 **Section 13. Assessments for ~~land~~ parcels held by religious corporations, cemeteries.**

4 All ~~lands~~ parcels in ~~said the~~ city held by religious corporations, and on which are located
5 buildings used solely for the purpose of holding religious services therein, and all ~~lands~~ parcels in
6 ~~said the~~ city held by cemetery corporations and used solely for cemetery purposes, shall be
7 exempt from the payment of any and all sewer assessments for the construction of sewage works
8 made in pursuance of the provisions of this act and according to the sewer authority's rules and
9 regulations, so long as such ~~lands~~ parcels shall be held and used solely for such purposes;
10 provided, that all such assessments made on such ~~lands~~ parcels for the construction of sewage
11 works under the provisions of this act shall be and remain ~~for thirty (30) years~~ a lien on ~~said the~~
12 ~~lands~~ parcels and the improvements thereon without interest, and the ~~said~~ city may enforce for
13 collection of ~~said the~~ assessments whenever ~~said the~~ ~~lands~~ parcels or any portion thereof shall be
14 abandoned ~~for~~ from said the above-listed purposes, in the same manner as other sewer
15 assessments under this act are collected or enforced; ~~and provided, further, that any such~~
16 ~~assessment may be adjusted in the manner and for any of the reasons prescribed in section 12 of~~
17 ~~this act.~~

18 **Section 14. Procedure for taking of land.**

19 The sewer authority with the advice and consent of the mayor on behalf of the city may
20 acquire by agreement, purchase or condemnation such land or right or easement in land as may
21 be necessary for the purposes of this act. Whenever the authority desires to take any such land or
22 right or easement in land by condemnation, it shall file with the city clerk a plat, description, and
23 statement of such land or right or easement in land to be taken and a statement that such land or
24 right or easement in land is taken pursuant to the provisions of this act.

25 Upon the recording of said plat, description and statement in the office of the city clerk,
26 the land or right or easement in land defined in such plat, description and statement to the extent
27 and according to the nature of the interest therein taken, shall vest in the city and shall be subject
28 to the use of the authority for the purposes of this act, and said authority may thereupon enter
29 upon and enjoy the rights, interests and easements taken as aforesaid; and after the filing of such
30 plat, description and statement, notice of such taking shall be served upon the owners of and
31 persons having an estate in and interested in such land by any police officer of the City of
32 Warwick leaving a true and attested copy of such description and statement with each of such
33 persons personally, or at their land and usual place of abode in this state with some person living
34 there, and, in case any of such persons are absent from the state and have no ~~last and~~ usual place

1 of abode therein occupied by any person, such copy shall be left with the persons, if any, in
2 charge of or having possession of such land of such absent persons, and another copy thereof
3 shall be mailed to the address of such absent persons if the same is known to said officer; and
4 after the filing of such description and statement, the city clerk of said city shall cause a copy of
5 such description and statement to be published in some newspaper or newspapers published or
6 circulated in said city at least twice a week for three successive weeks; and if any party shall
7 agree with said authority for the price of the rights, interests or easement so taken, the same shall
8 be paid to him forthwith by said authority.

9 The authority with the advice and consent of the mayor shall have general authority to
10 represent the city and to make any agreements for said city under the authority of this section and
11 to do, with the advice and consent of the mayor, any acts or things necessary or incidental to
12 executing settlements and agreements, and shall have authority to agree with the owner for the
13 price of land so taken and the same shall be paid by the city treasurer out of the proceeds of bonds
14 or notes issued hereunder or other funds made available for the purpose, upon vouchers approved
15 by the ~~majority of the~~ authority and the finance director.

16 Any owner of or person entitled to any estate in or interested in any part of the land in
17 which such fee, rights, interests or easements are so taken who cannot agree with said city or
18 authority for the price of such fee, rights, interests or easements so taken in which he/she is
19 interested as aforesaid, may, within one year from the filing of the plat, description and statement
20 referred to in this section of this act, apply by petition to the superior court in and for the county
21 of Kent, setting forth the taking of such fee, rights, interests or easements in his land and praying
22 for an assessment of damages by a jury. Upon the filing of said petition the said court shall cause
23 twenty days' notice of the pendency thereof to be given to said city by serving the mayor of said
24 city with a certified copy thereof, and may proceed after such notice to the trial thereof; and such
25 trial shall determine all questions of fact relating to the value of such fee, rights, interests or
26 easements and the amount thereof, and judgment shall be entered upon the verdict of such jury
27 and execution shall be issued therefor.

28 In case any owner of or person having an estate in or interested in such land shall fail to
29 receive personal notice of the taking as aforesaid, and shall fail to file the petition as provided in
30 this section, said court in its discretion may permit the filing of such petition subsequent to said
31 period of one year from the filing of such description and statement; provided, such person shall
32 have no actual knowledge of the taking of such fee, right, interest or easement in season to file
33 such petition.

34 If any lands, or any fee, rights, interests or easements therein, in which any infant or other

1 person not capable in law to act in his own behalf is interested, are taken by said authority under
2 the provisions of this act, said superior court, upon the filing therein of any such petition by or in
3 behalf of such infant or other person, may appoint a guardian ad litem for such infant or other
4 person, and such guardian may appear and be heard in behalf of such ~~in-fact~~ infant or other
5 person; and such guardian may also, with the advice and consent of said superior court, may
6 prescribe, release to said city or authority all claims for damages for the fee, rights, interests or
7 easements in the lands of such infant or other person. Any lawfully appointed, qualified and
8 acting guardian of the estate of any such infant or other person, with the approval of the court of
9 probate within this state having jurisdiction to authorize the sale of lands within this state of any
10 such infant or person, may, before the filing of any such petition, agree with said authority upon
11 the amount of damages suffered by such infant or other person by any such taking and may, upon
12 receiving such amount, release to said city or authority all claims of damages of such infant or
13 other person for such taking.

14 Any damages assessed as the result of petition to the superior court shall be paid by the
15 city treasurer from the proceeds of bonds or notes issued hereunder or other funds made available
16 for the purpose upon vouchers approved by the mayor and ~~the majority of~~ the authority and
17 finance director, provided, however, that nothing in this act shall authorize the authority to
18 condemn any portion of the land or right-of-way of any railroad, street, railway or other public
19 service company, except for the purpose of crossing the same below grade and of building and
20 maintaining necessary manholes at such crossing in such manner as not to render unsafe, or to
21 impair the usefulness of such land or right-of-way for railroad or street railway purposes or the
22 purposes of such other public service company. If said authority and such railroad, street, railway
23 or other public service company are unable to agree as to the method of the construction and
24 maintenance of such sewer and manholes at any such crossing, either party may apply to the
25 division of public utilities for a determination thereof, and, after hearing, such sewer and
26 manholes shall be constructed and maintained in such method and manner as may be ordered by
27 said division. Either party aggrieved by such order of said division may appeal to the supreme
28 court.

29 Prior to any taking hereunder, the authority shall provide specific funds for payment of
30 compensation, the use of such funds for such purpose shall be a fixed obligation of the city, and,
31 notwithstanding anything to the contrary herein, the full faith and credit of the city shall be
32 deemed pledged to pay such compensation.

33 **Section 15. Contracts with other municipalities, the state.**

34 The city, acting by its sewer authority and the mayor. is further authorized to contract

1 with any other city, ~~or~~ town or municipal agency in this state or with the State of Rhode Island,
2 ~~{and any other city or town in this state and the State of Rhode Island~~ or any quasi-public agency
3 in this state} is authorized to contract with the ~~City of Warwick~~ authority with the advice and
4 consent of the mayor, on such terms as may be mutually agreed upon between them with
5 reference to the construction, maintenance, operation and the utilization of sewage works
6 belonging to the city and authority or any other city or town or municipal agency in this state and
7 the State of Rhode Island or any quasi-public agency in this state; and the authority, with advice
8 and consent of the mayor, ~~city~~ may likewise contract with any other city or town or municipal
9 agency or the State of Rhode Island or any quasi-public agency in this state with regard to the
10 disposition of sewage from sewage works belonging to any of said cities or towns or municipal
11 agency or the State of Rhode Island ~~-~~ or any quasi-public agency in this state.

12 **Section 16. Authority to prescribe rules and regulations governing construction, use,**
13 **discharge of substances, ~~and~~ connections, and sewer assessments.**

14 The sewer authority, after notice and a public hearing, and the advice and consent of the
15 mayor, is authorized from time to time to prescribe rules and regulations, subject to ratification by
16 the city council, relative to the regulation of, construction of, use of, discharge of substances into
17 and connections to the sewage works, ~~and~~ assessment of properties abutting a sewer line,
18 determining the method of sewer assessments and the rate of interest for sewer assessment
19 installment payments. These rules and regulations shall cover the restriction of storm waters,
20 wastes which may or may not be discharged into the sewer system, the requirement for the
21 ~~property~~ parcel owner or sewer user to provide protective devices prior to discharge, sampling
22 wells to determine strength of wastes, flow measuring devices, pretreatment facilities and any
23 other requirement to provide proper protection and control of the use of the ~~sewage~~ sewer system
24 and ~~sewage-~~ treatment facilities. Such rules or regulations adopted after a public hearing shall be
25 filed with the city clerk. Any person violating any rule or regulation prescribed by the authority
26 under the authority of this act shall be fined not exceeding five thousand dollars (\$5,000) for each
27 violation, and not exceeding five thousand dollars (\$5,000) for each additional day that any such
28 violation shall continue, as may be prescribed by the authority, and shall also be liable in an
29 action of the case for all damages caused to the city or to any person by any such violation.

30 **Section 17. Authority to order connection to sewer; ordering cesspool, etc. to be**
31 **filled up, etc.**

32 (a) The sewer authority with the advice and consent of the mayor in the interest of public
33 health and safety is authorized to order any abutting owner or occupant of ~~land~~ any parcel
34 whereupon there is a cesspool, privy vault, drain or other arrangement that has failed by Rhode

1 [Island department of environment management definition](#) upon any street in which there is a
2 sewer or in which a sewer may hereafter be constructed, to connect the sewage of such premises
3 with such sewer, and to order any owner or occupant to fill up and destroy any cesspool, privy
4 vault, drain or other arrangement on such ~~land~~ [parcel](#) for the reception of sewage. Upon the
5 service of any such order, or copy thereof, upon any such owner or occupant, to connect the
6 sewage as aforesaid, or to fill up or destroy any cesspool, privy vault, drain or other arrangement
7 for the reception of sewage, such owner or occupant shall comply therewith within thirty (30)
8 days from the time of service of such order. In case the owner or occupant to whom any such
9 order is directed shall neglect or refuse to comply therewith within thirty (30) days after the
10 service thereof upon him/her, he/she shall be fined not less than one hundred dollars (\$100) nor
11 more than five hundred dollars (\$500.00) for each subsequent twenty-four (24) hours during
12 which he/she shall neglect or refuse to comply therewith and in case such neglect or refusal shall
13 continue for sixty (60) days after the service of such an order, the authority may cause such
14 cesspool, privy vault, drain or other arrangement for the reception of sewage which is the subject
15 of such order to be filled up and destroyed and the sewage from such [parcel](#) ~~land~~ to be connected
16 with a common sewer. The pendency of any appeal from any such order shall not affect the
17 power of the authority, after the expiration of said period of sixty (60) days, to cause such
18 cesspool, privy vault, or other arrangement for the reception of sewage to be forthwith filled up
19 and destroyed.

20 Whenever the authority shall cause any cesspool, privy vault, or other arrangement for
21 the reception of sewage to be filled up and destroyed, or the sewage of any ~~land~~ [parcel](#) to be
22 connected with a common sewer, it shall keep careful account of the cost of such work and of any
23 expense caused the city [or authority](#) by reason of the neglect or refusal of the owner or occupant
24 of such ~~land~~ [parcel](#) to comply with the order of the authority issued as aforesaid, and upon the
25 completion of such work the authority shall file statement of such cost and expense with the
26 director of finance and thereupon the amount of such cost and expense shall be a lien upon the
27 ~~land~~ [parcel](#), including improvements thereon, for which such cost and expense was incurred and
28 the same shall be collected in the same manner as other assessments and charges are collected
29 under this act.

30 (b) ~~Mandatory connection to sewer prior to sale or transfer.~~ Any ~~abutting~~ owner ~~or~~
31 ~~occupant~~ of ~~land~~ [any parcel](#) upon any street in which there is a sewer must connect the sewage of
32 such premises with such sewer and fill up and destroy any cesspool, privy vault, drain or other
33 arrangement on such ~~land~~ [parcel](#) for the reception of sewage, excluding any Rhode Island
34 department of environmental management [OWTS ISDS](#) approved system, prior to the one year

1 anniversary of the sale or transfer in ownership. ~~If such abutting owner or occupant of land any~~
2 ~~parcel who is required to connect to the sewage system fails to do so in the prescribed time~~
3 ~~period, then such abutting owner or occupant of and shall be required to pay usage fees as if such~~
4 ~~abutting owner or occupant of land were connected to the sewage system.~~

5 If such owner or occupant of any parcel who is required to connect to the sewage system
6 fails to do so in the prescribed time period, then such abutting owner or occupant of the parcel
7 shall be required to pay usage fees as if such owner or occupant of the parcel were connected to
8 the sewer system.

9 (c) Notwithstanding the provisions of any law, rule, regulation or agreement to the
10 contrary, an abutting owner or occupant of ~~land~~ any parcel upon any street in which there is a
11 common sewer shall not be required to connect to the sewage system, except as provided under
12 subsections (a) or (b) ~~or (c)(b)~~ of this section.

13 (d) The authority shall establish rules and regulations to allow for temporary hardship
14 waivers from these requirements to connect to the sewer system for those parcel owners that
15 demonstrate undue hardship (as defined in the WSA regulations). Any waiver granted shall expire
16 upon transfer or sale of the land or easement upon which the cesspool or OWTS is located. The
17 authority shall also establish an incentive program for connecting to the sewer system prior to the
18 deadlines set forth in subsection (b) of this section. The city council may, at any time, appropriate
19 funds to support these programs.

20 **Section 18. Plat of sewer declared public record for assessment purposes.**

21 Whenever a common sewer is constructed under the provisions of this act, the sewer
22 authority shall cause a plat of the layout of the same and of the estates abutting upon that portion
23 of the highway in which the sewer is laid to be filed in the office of the city clerk, which ~~the said~~
24 plats are hereby declared to be public records for the determination of the description of the estate
25 assessed for construction of sewage works.

26 **Section 19. Sewer board of review; appeals; record of proceeding; organization and**
27 **procedure.**

28 There shall be a sewer board of review which shall consist of three (3) members
29 appointed by the Mayor with approval of the city council. The members first appointed shall
30 serve for terms of 1, 2 and 3 years respectively and thereafter one member shall be appointed in
31 each year for a term of three years.

32 Within 60 days after mailing of notice of an assessment or charge under section 9 or
33 within 30 days after giving or mailing of notice of an order under section 2.17, any person
34 aggrieved by such assessment, charge or order may appeal to the sewer board of review.

1 The sewer board of review shall keep an accurate record of its proceedings which shall be
2 available for public inspection.

3 The board shall review the authority's decision to ensure that the authority's decision
4 complies with the provisions of this act and the rules and regulations promulgated thereunder. If
5 the board determines that ~~such an~~ assessment charge or order ~~is unwarranted~~ was made in
6 violation of the express provisions of this act, either in whole or in part, it shall annul or modify
7 the same and make such order as justice may require. Otherwise it shall affirm the same. Within
8 30 days after the decision of the sewer board of review, any party aggrieved, ~~which may include~~
9 including the sewer authority, may appeal to the superior court. ~~which shall have the same~~
10 ~~powers to annul, modify, enter further orders or affirm as the sewer board of review.~~

11 The city council shall provide by ordinance for the organization of procedure of the sewer
12 board of review. ~~and for the manner of receiving, considering and disposing of appeals.~~

13 **Section 20. ~~Reserved~~ Public Hearings.**

14 The authority shall be required to hold public hearings for various reasons including, but
15 not limited to, proposed annual budgets, rate increases, and for the adoption of rules and
16 regulations. The authority shall develop regulations for public hearings to include notice
17 requirements, distribution of associated documents and response to substantive and relevant
18 comments from the public.

19 **Section 21. Reserved.**

20 **Section 22. Use of federal, other aid.**

21 The sewer authority of ~~said~~ the city by the vote ~~of a majority~~ of its members may vote to
22 accept and use in connection with the construction of the sewage works authorized by this act any
23 funds from the United States of America or aid in any form under any and all acts and joint
24 resolutions of congress already enacted or which may be enacted, and upon such terms and
25 conditions as may be required by the proper federal authorities.

26 **Section 23. Severability.**

27 If any part, clause, division or section of this act shall be declared unconstitutional, the
28 validity of its remaining provisions shall not be affected thereby.

29 **Section 24. Effect on power of city to incur indebtedness.**

30 This act shall not affect any other power which the city may have under any other
31 provisions of law to incur indebtedness.

32 **Section 25. Reserved.**

33 **Section 26. Effective date.** This legislation shall become effective upon passage. The
34 WSA shall adopt rules and regulations within one year thereafter in accordance with this act.

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

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LC005802
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO THE CITY OF WARWICK - SEWER AUTHORITY

- 1 This act would make a number of changes to the enabling act for the Warwick Sewer
- 2 Authority.
- 3 This act would take effect upon passage.

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LC005802
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