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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO THE CITY OF WARWICK -- SEWER AUTHORITY

Introduced By: Representatives Naughton, McNamara, Nardolillo, Shekarchi, and Solomon

Date Introduced: May 22, 2015

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 1, 2, 3, 4, 8, 9, 9.1, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 22
2 of Chapter 254 of the Public Laws of 1962 entitled "An Act to Create a Sewer Authority for the
3 City of Warwick and to Authorize said City to Plan, Construct, Finance, Operate and Maintain
4 Sewage Works", as amended, are hereby further amended to read as follows:

5 Section 1. Authority to plan, etc., sewage works; definitions; bonding authorized; sewer
6 charge, assessment authorized. -- The city of Warwick, is authorized and empowered, in
7 accordance with the provisions of this ~~Act~~ [act](#), to plan, lay out, construct, finance, operate and
8 maintain sewage works for a part ~~of~~ [or](#) the whole of its territory and for such purposes to take by
9 eminent domain or otherwise any lands, water rights, rights-of-way, or easements, public or
10 private, in said ~~City~~ [city](#) necessary for accomplishing any purpose mentioned in this ~~Act~~ [act](#). Such
11 sewage works may include sewers and sewer service connections, pumping stations, sewage
12 treatment works, sewage disposal works, and other works essential to the proper collection,
13 treatment, and disposal of the sewage of said ~~City~~ [city](#).

14 As used in the ~~Act~~ [act](#), unless the context otherwise requires:

15 "Authority" means the ~~Sewer Authority~~ [sewer authority](#) authorized by this ~~Act~~ [act](#).

16 "[Cesspool](#)" means [any buried chamber other than an on-site waste-water treatment](#)
17 [system \(OWTS\), including, but not limited to, any metal tank, perforated concrete vault or](#)
18 [covered hollow or excavation, which receives discharges of sanitary sewage from a building for](#)
19 [the purpose of collecting solids and discharging liquids to the surrounding soil.](#)

1 "City" means the City of Warwick.

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

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

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

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

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

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 seepage or subsoil drainage herein. In general, waste-waters carrying any quantity of oils,
16 grease, fats, abrasives, chemicals, residues of manufacturing processes, wastes from commercial
17 food preserving or canning, from slaughter houses or meat processing plants, and similar
18 substances, whether dissolved, in suspension, or mechanically carried by water, shall be
19 considered as industrial wastes.

20 "Land" means and includes any land, including ~~building~~ buildings and other
21 ~~improvement~~ improvements thereon, estate, riparian or other ~~right~~ rights, ~~easement~~ easements,
22 ~~interest~~ interests or ~~waterway~~ waterways.

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

25 "Main sewer" means a sewer into which the sewage from two (2) or more sub-main
26 sewers is discharged.

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

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

31 "Parcel" means a part, portion or tract of land and whatever is erected, attached, growing
32 upon or affixed to the land.

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

34 "Sewage" shall mean waste_uwater, water carried wastes, or a combination of them,

1 discharged into and conveyed by sewers or intended or customarily so discharged and conveyed.
2 Sewage may be further classified as ~~follows:~~ sanitary or industrial.

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

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

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

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

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

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

28 "Storm water" shall include the runoff or discharge of rain and melted snow or other
29 clean water from roofs, surfaces of public or private ~~lands~~ parcels or elsewhere. For most
30 purposes within the scope of this ordinance, storm water shall not include the flow of any natural
31 brook, rivulet or stream even if the source of such water is storm runoff from ~~land~~ parcels, land or
32 other property once that runoff has entered the channel of such brook or natural watercourse. In
33 general, storm water shall include only water which is sufficiently clean and unpolluted to admit
34 of being discharged, without treatment or purification, into any natural open stream or

1 watercourse without offense.

2 "Sub-main sewer" means a sewer into which the sewage from two (2) or more lateral
3 sewers is discharged.

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

6 "User Charges" means rates, charges and/or fees levied on the users of the wastewater
7 collection and treatment system related to the costs of operation, maintenance, repair and
8 replacement of the wastewater collection and treatment system.

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

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

27 Section 2. Sewer authority. -- There shall be a bi-partisan sewer authority for the city
28 consisting of five (5) qualified electors of the city, not more than three (3) of whom shall be
29 members of the same political party, to be appointed by the mayor subject to confirmation by the
30 city council. It shall be the purpose of the sewer authority to provide wastewater collection and
31 treatment services to the City of Warwick in a cost effective and environmentally sound manner.
32 ~~Upon passage of this act, the The~~ mayor, ~~within eight (80) days thereafter,~~ shall appoint the five
33 (5) members of the authority, two (2) of each from lists of ~~ten (10)~~ not less than three (3) names
34 submitted by the respective chairman of the city political committees and one (1) member without

1 party designation; one (1) member to hold office until one (1) ~~years~~ year from the first day of
2 February preceding said appointment, one (1) member to hold office until two (2) years from the
3 first day of February preceding said appointment, one (1) member to hold office until three (3)
4 years from the first day of February preceding said appointment, one (1) member to hold office
5 until four (4) years from the first day of February preceding said appointment, and one (1)
6 member to hold office until five (5) years from the first day of February preceding said
7 appointment, ~~and in~~ In the month of January preceding the expiration of the term of each of ~~said~~
8 the authority's members, the mayor shall appoint one (1) member to succeed the member whose
9 term will next expire to hold office for the term of five (5) years from the first day of February
10 next after his appointment and until his successor is appointed and qualified in the same manner
11 as provided in the original appointment for such term. In case any person appointed as a member
12 of said authority shall decline to serve or neglect to qualify within ten (10) days after his
13 appointment, or a vacancy shall occur in said authority for any other cause, the mayor, within
14 thirty (30) days shall appoint some person to fill such vacancy for the unexpired term in the same
15 manner as provided in the original appointment for such term. A person holding any other office
16 of emolument or profit under the government of the city shall not be eligible to membership on
17 the authority and if any member of said authority shall accept any such office or shall remove
18 from the city, his place on the authority shall immediately become vacant. The members of the
19 authority shall be severally sworn to the faithful performance of their duties under this act. They
20 shall elect from among their members a chairman and a secretary at the first meeting after the
21 organization and upon the appointment of any new member for a full term and shall fill any
22 vacancy that may occur in either office from any cause. A majority of the members of the
23 authority shall constitute a quorum for the transaction of business. The mayor may remove any
24 member of the authority from office for cause shown after a hearing before the city council of
25 which such member shall be given seven (7) days' notice in writing.

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

29 The authority may adopt by-laws governing the transaction of business by an affirmative
30 vote of at least four (4) members ~~majority all voting~~, but no such by-laws shall authorize any
31 action by the authority except by ~~a majority~~ the affirmative vote of at least three (3) members
32 thereof and with the advice and consent of the mayor.

33 ~~The authority appointed by the provisions of this section, until the remaining sections of~~
34 ~~this act take effect upon acceptance by referendum as further provided herein, shall have the~~

1 ~~following interim powers and duties:~~

2 The authority shall review the sewer survey ([Facilities Plan](#)) in order to develop
3 procedures for the implementation of the general sewer program and to conduct preliminary
4 studies in order to execute the administrative details contained in this act.

5 Such activities may include:

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

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

9 (c) An establishment and exercise of a public information program.

10 The members of the authority and their duly authorized agents may enter upon any
11 premises within the city to examine, inspect or survey the same, whenever necessary for the
12 performance of their duties under this act.

13 Section 3. ~~Preparation of plans—Public hearing—Reports—Specifications—Estimates.~~

14 ~~– Preparation of plans; public hearing; reports; specifications; estimates.--~~ Without in any way
15 limiting the authority of ~~said~~ [the](#) city to provide sewers anywhere within the territorial limits of
16 the city, the sewer authority, with the advice and consent of the mayor, may authorize the
17 construction, maintenance, and operation of sewage works from time to time in different areas or
18 sections of the city. The authority shall proceed to prepare construction plans, specifications and
19 cost estimates of sewage works for the city, or any portion thereof, allowing the streets and
20 highways in which the sewers will be placed and the location of other sewage works to be placed
21 outside of the street and highway limits. The authority shall also prepare, or have prepared, a
22 report describing the proposed sewage works and a complete estimate of costs therefor.

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

27 The finance director, with the consent of the mayor and a requisition ~~signed~~ [approved](#) by
28 ~~a majority of~~ the authority [and signed by the authority's chairman](#), shall appropriate a sum
29 sufficient to pay the cost of preparing the plans, specifications, report and estimates provided for
30 in this section, to be expended by the authority, and to be paid by the city treasurer upon vouchers
31 approved by the mayor and ~~a majority of~~ the authority and the finance director, and the city
32 treasurer shall repay the treasury any sums so expended whenever sewer bonds or notes are
33 issued as hereinafter provided.

34 In the preparation of plans, specifications, reports and estimates provided in this section,

1 the authority may, with the consent of the mayor, from time to time employ and fix the
2 compensation of such consulting engineers, legal advisers, and other professional experts, and
3 such other employees as it may find necessary and may discontinue the employment of any or all
4 such employees.

5 Section 4. ~~Construction of works—Contracts—Operation and maintenance of works~~
6 ~~Employment of professional—Records—Minutes.~~ Construction of works; contracts; operation
7 and maintenance of works; employment of professional; records; minutes. -- Upon the
8 completion of a public hearing of the plans, specifications, reports and estimates as provided in
9 section 3 hereof, the sewer authority, with the advice and consent of the mayor, shall proceed as
10 soon as may be practicable to carry out construction work contemplated by the plans aforesaid.
11 The authority, with the advice and consent of the mayor, shall be vested with full authority to
12 construct sewage works for ~~said the city;~~ and to make for and on behalf of the city all necessary
13 contracts for construction and for the purchase of property, the authority may purchase any
14 supplies ~~Supplies~~ and equipment for the construction, operation and maintenance of any sewage
15 works. All work, supplies, materials and equipment required by the authority in connection with
16 the construction of the sewage works shall be procured by contract made pursuant to and in
17 manner required by the provisions hereof. For all contracts involving more than five thousand
18 dollars (\$5,000), except in the case of legal services, the services of consulting engineers and
19 other professional services, ~~said the~~ authority shall not issue purchase orders without obtaining
20 the prior consent of the mayor and thereafter filing a monthly report of such contracts and
21 purchase orders with the mayor and city council. The operation, maintenance and ~~reparation~~
22 repair of ~~said the~~ sewage works shall be vested in the authority.

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

1 Section 8. Custody and accounting of funds raised by bonding or notes.-- The proceeds
2 arising from the sale of any bonds or notes issued under authority of this act shall be delivered to
3 the city treasurer and shall be kept ~~by him~~ in separate accounts and shall be expended only for the
4 purposes and in the manner prescribed by this act, provided that the proceeds of the sale of any
5 issue of serial bonds or notes shall first be applied to the payment of such temporary notes as may
6 have been issued in anticipation of such issue, and provided further that any premium received
7 over the par value of the serial bonds or notes of any issue, less the cost of preparing, issuing and
8 marketing such serial bonds or notes shall be applied to the payment of the principal of the first
9 bonds or notes of such issue first to mature.

10 Section 9. Apportionment of costs; sewer assessments and charges; enforcement of
11 charges and assessments. -- The authority, with the advice and consent of the mayor, shall
12 prescribe just and equitable sewer assessment ~~rats~~ rates on account of the construction costs, to
13 be levied against owners of ~~property~~ parcels abutting on that portion of any highway in which a
14 common sewer is laid under this act and also rates of ~~annual and connect capable~~ user charges on
15 account of operation and maintenance costs, renewal and replacement funding and the cost of
16 principal and interest for any bonds or notes issued for sewage works, to be levied against owners
17 of ~~property~~ parcels which ~~is~~ are or could be connected to a common sewer.

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

22 Notwithstanding the foregoing, the authority ~~shall have discretion to~~ may defer sewer
23 assessments against parcels ~~of land~~ that are undeveloped or not developed to the extent
24 permissible by city zoning ordinances provided that such ~~parcel~~ parcels remain subject to
25 assessment upon the ~~earlier to occur of either, (i)~~ development or redevelopment of such ~~parcel~~
26 parcels in accordance with the authority's rules and regulations, of land; or (ii) twenty (20) years
27 ~~from the date of initial assessment. Similarly, the~~ The authority ~~shall have discretion to~~ may defer
28 sewer assessments against any parcels, ~~of land~~ if the owner of ~~such a~~ parcel, ~~within seven (7)~~
29 ~~years of the date of the sewer assessment,~~ has installed a new ~~septic system~~ OWTS within twenty
30 (20) years of sewer service initially becoming operational, provided that such parcel shall remain
31 subject to assessment and shall begin paying such assessment ~~at least seven (7)~~ twenty (20) years
32 from the date of the installation of the OWTS or upon connection to the sewer system, whichever
33 occurs first ~~initial assessment.~~

34 The sewer assessments ~~may~~ shall be determined by a method(s) adopted by the sewer

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

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

17 Sewer assessments levied hereunder may be paid in as many as ~~twenty (20)~~ thirty (30)
18 annual installments in accordance with the terms of the loan secured for sewer construction, upon
19 application by the property parcel owner and approval of the sewer authority. In the case of
20 installment payments, interest at a rate not to exceed ~~four percent (4%) per annum for assessment~~
21 ~~in effect prior to June 30, 1988, and for assessments established thereafter~~ a maximum rate of one
22 and twenty-five hundredths percent (1.25%) above the average interest rate the authority is
23 charged on the loan used to fund the construction of the sewer ~~not to exceed nine percent (9%)~~
24 ~~per annum~~ shall be charged annually on the unpaid balance of the total sewer assessment. Such
25 annual installment payments may be paid on a quarterly basis.

26 Sewer assessments shall be levied at a uniform rate based upon the ~~estimated~~ final cost of
27 constructing all sewers, sewer service connections and other sewage works belonging to the city.
28 Sewer assessment revenues shall be used for the payment of the principal and interest costs for
29 any bonds or notes issued for sewage works.

30 ~~Annual~~ User charges shall be levied upon every property parcel owner whose ~~property~~
31 parcel is connected to the city's sewage system. The ~~change~~ charge will be computed based upon
32 water consumption or other factors deemed equitable by the sewer authority. The ~~annual~~ user
33 charge ~~should~~ shall be set at a level sufficient to support operation and maintenance costs of the
34 sewer system and the wastewater treatment plant, the renewal and replacement fund and the

1 principal and interest for any bonds or notes issued for sewage works. The revenues to be raised
2 by ~~annual~~ user charges will be reduced by revenues generated by sewer assessments ~~and connect~~
3 ~~capable fees.~~

4 ~~Connect capable charges may be levied upon every property owner or institution whose~~
5 ~~property parcel is abutting on that portion of any highway in which a common sewer is laid while~~
6 ~~said property parcel is not connected to the aforementioned sewerage system, but is capable of~~
7 ~~doing so. The charge will be established at a level determined by the sewer authority to recover~~
8 ~~an equitable portion of the principal for any bonds or notes issued for sewerage works and~~
9 ~~renewal and replacement funding, and shall be subject to consent by the mayor and the Warwick~~
10 ~~City Council.~~

11 The authority shall annually certify to the finance director and to the mayor all the
12 charges and sewer assessments made by it under the authority of this act. Each charge or
13 assessment made by ~~said~~ the authority pursuant to this act shall be a lien upon the parcels, lands,
14 buildings and improvements upon which it is made in the same way and manner as taxes assessed
15 on real estate, but such liens shall not expire until the charge or assessment with all interest, costs
16 and penalties thereon is paid in full, and, if the charge or assessment is not paid as required, it
17 shall be collected in the same manner that taxes assessed on real estate are by law collected. The
18 finance director, after receiving a list of charges or assessments under this act, shall forthwith, at
19 the expense of the authority, send to each person assessed or charged notice of the amount of his
20 assessment or charge. The notice shall substantially identify the person assessed, state the amount
21 of the assessment or charge and refer to the remedy available under section 19 of this act. The
22 notice shall be mailed postpaid and directed to the last known address of the person assessed. If
23 there are persons whose addresses are unknown, a similar notice covering the assessments against
24 such persons shall be published in a newspaper of general circulation in the city and such
25 published notice may be a single collective notice for all such persons. No irregularity in the
26 notice required by this section shall excuse the nonpayment of the assessment or charge or affect
27 its validity or any proceedings for the collection thereof as long as there is substantial compliance
28 with the provision hereof. No deficiency in the notice to the person assessed shall excuse the
29 nonpayment by others of the assessment or charges assessed against them or affect the validity
30 thereof or any proceedings for the collection thereof. The finance director shall without further
31 warrant collect such charges and assessments in the same manner as the regular taxes of the city
32 may be payable. Interest at the rate per annum fixed for nonpayment of city taxes shall be charged
33 and collected upon all overdue charges and assessments from the date they become payable until
34 paid, provided however, that the total overdue charge for non-payment of installment of sewer

1 assessments shall be applied to past due installments and not the total assessment; and provided
2 further, that there shall be no penalty on installment assessments deferred by reason of income
3 subject to rules and regulations that the Warwick City Council may prescribe by ordinance.

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

7 Section 9.1. Renewal and replacement account. -- The city finance director shall establish
8 in a separate account for renewal and replacement. The purpose of the account is to provide for
9 the future renewal or replacement of the current and future physical assets of the wastewater
10 treatment plant whose cost is in excess of ten thousand dollars (\$10,000.) with an economic life
11 of at least five (5) years. The renewal and replacement account will be funded annually through
12 ~~annual user~~ charges and connect-capable fees, as determined by the sewer authority, in an amount
13 equal to total gross depreciation expense as computed under generally accepted accounting
14 principals, including the amortization of local and nonlocal contributed capital or an alternative
15 amount based on industry standards. Interest earned on monies deposited in the renewal and
16 replacement fund will be credited to the account. Withdrawals from the account, subject to the
17 aforementioned limitations of cost and economic life, must be approved by the sewer authority.

18 Section 10. ~~Receipts from annual charges and assessments.~~ Receipts from user charges
19 and assessments. -- The receipts from ~~annual user~~ charges and sewer assessments ~~and connect~~
20 ~~capable charges~~, as provided for in section 9 of this act, should be separately accounted for by the
21 finance director; at the close of each fiscal year the city treasurer shall transfer from such funds to
22 the treasury a sum sufficient to repay the sums appropriated and paid from the treasury during the
23 fiscal year then close on account of the principal and interest of all borrowing for the purpose of
24 this act and for the payment of charges and expenses incident to the operation, maintenance,
25 renewal and replacement fund and repair of said sewage works or to the extension thereof. At the
26 end of a fiscal year, if the finance director determines that the revenues referred to above as well
27 as prior year fund balances were not sufficient to cover operation and maintenance costs, renewal
28 and replacement funding and principal and interest for any bonds or notes issued for sewage
29 works, thereby creating insufficient end of year balances, charge shall be adjusted in the next
30 fiscal year to assure sufficient balances in the sewer fund. If the receipts from said charges and
31 assessments amount in any year to more than will be required for the aforesaid purposes, the
32 surplus shall be added to the receipts of the next succeeding year.

33 Section 11. Recovery of assessment charge by joint tenant, tenant in common, etc., from
34 other tenant. -- Whenever a tenant by the entirety, or a joint tenant, or a tenant in common of any

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

15 Section 12. ~~Appeal of assessment of irregular, unusual land; assessment of lots at~~
16 ~~intersection of roads. — The owner of a lot of land irregular in shape or which is unduly above or~~
17 ~~below grade or which for any reason is deemed to be inequitably assessed under this act, in the~~
18 ~~event such an assessment is made, may appeal to the sewer board of review as hereinafter~~
19 ~~provided in section 19 of this act. The authority, with the advice and consent of the mayor, may~~
20 ~~notwithstanding an appeal, on its own initiative, adjust the sewer assessment on such a lot or~~
21 ~~exempt such a lot from assessment.~~

22 ~~Where a lot is located at the intersection of two streets or highways in which sewers have~~
23 ~~been constructed, the sewer assessment on such lot shall be made only for the sewer in the street~~
24 ~~or highway in which the assessment would be greater.~~

25 Section 13. ~~Assessments for land held by religious corporations, cemeteries. —~~
26 Assessments for parcels held by religious corporations, cemeteries. -- All ~~lands~~ parcels in ~~said~~ the
27 city held by religious corporations, and on which are located buildings used solely for the purpose
28 of holding religious services therein, and all ~~lands~~ parcels in ~~said~~ the city held by cemetery
29 corporations and used solely for cemetery purposes, shall be exempt from the payment of any and
30 all sewer assessments for the construction of sewage works made in pursuance of the provisions
31 of this act and according to the sewer authority's rules and regulations, so long as such ~~lands~~
32 parcels shall be held and used solely for such purposes; provided, that all such assessments made
33 on such ~~lands~~ parcels for the construction of sewage works under the provisions of this act shall
34 be and remain ~~for thirty (30) years~~ a lien on ~~said~~ the ~~lands~~ parcels and the improvements thereon

1 without interest, and the ~~said~~ city may enforce for collection of ~~said~~ the assessments whenever
2 ~~said~~ the ~~lands~~ parcels or any portion thereof shall be abandoned ~~for~~ from ~~said~~ the above-listed
3 purposes, in the same manner as other sewer assessments under this act are collected or enforced;
4 ~~and provided, further, that any such assessment may be adjusted in the manner and for any of the~~
5 ~~reasons prescribed in section 12 of this act.~~

6 Section 14. Procedure for taking of land. -- The sewer authority with the advice and
7 consent of the mayor on behalf of the city may acquire by agreement, purchase or condemnation
8 such land or right or easement in land as may be necessary for the purposes of this act. Whenever
9 the authority desires to take any such land or right or easement in land by condemnation, it shall
10 file with the city clerk a plat, description, and statement of such land or right or easement in land
11 to be taken and a statement that such land or right or easement in land is taken pursuant to the
12 provisions of this act.

13 Upon the recording of said plat, description and statement in the office of the city clerk,
14 the land or right or easement in land defined in such plat, description and statement to the extent
15 and according to the nature of the interest therein taken, shall vest in the city and shall be subject
16 to the use of the authority for the purposes of this act, and said authority may thereupon enter
17 upon and enjoy the rights, interests and easements taken as aforesaid; and after the filing of such
18 plat, description and statement, notice of such taking shall be served upon the owners of and
19 persons having an estate in and interested in such land by any police officer of the City of
20 Warwick leaving a true and attested copy of such description and statement with each of such
21 persons personally, or at their land and usual place of abode in this state with some person living
22 there, and, in case any of such persons are absent from the state and have no ~~last~~ land and usual
23 place of abode therein occupied by any person, such copy shall be left with the persons, if any, in
24 charge of or having possession of such land of such absent persons, and another copy thereof
25 shall be mailed to the address of such absent persons if the same is known to said officer; and
26 after the filing of such description and statement, the city clerk of said city shall cause a copy of
27 such description and statement to be published in some newspaper or newspapers published or
28 circulated in said city at least twice a week for three successive weeks; and if any party shall
29 agree with said authority for the price of the rights, interests or easement so taken, the same shall
30 be paid to him forthwith by said authority.

31 The authority with the advice and consent of the mayor shall have general authority to
32 represent the city and to make any agreements for said city under the authority of this section and
33 to do, with the advice and consent of the mayor, any acts or things necessary or incidental to
34 executing settlements and agreements, and shall have authority to agree with the owner for the

1 price of land so taken and the same shall be paid by the city treasurer out of the proceeds of bonds
2 or notes issued hereunder or other funds made available for the purpose, upon vouchers approved
3 by the ~~majority of the~~ authority and the finance director.

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

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

22 If any lands, or any fee, rights, interests or easements therein, in which any infant or other
23 person not capable in law to act in his own behalf is interested, are taken by said authority under
24 the provisions of this act, said superior court, upon the filing therein of any such petition by or in
25 behalf of such infant or other person, may appoint a guardian ad litem for such infant or other
26 person, and such guardian may appear and be heard in behalf of such infant or other person; and
27 such guardian may also, with the advice and consent of said superior court, may prescribe, release
28 to said city or authority all claims for damages for the fee, rights, interests or easements in the
29 lands of such infant or other person. Any lawfully appointed, qualified and acting guardian of the
30 estate of any such infant or other person, with the approval of the court of probate within this
31 state having jurisdiction to authorize the sale of lands within this state of any such infant or
32 person, may, before the filing of any such petition, agree with said authority upon the amount of
33 damages suffered by such infant or other person by any such taking and may, upon receiving such
34 amount, release to said city or authority all claims of damages of such infant or other person for

1 such taking.

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

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

21 Section 15. Contracts with other municipalities, the state. -- The city, acting by its sewer
22 authority and the mayor, is further authorized to contract with any other city, ~~or~~ town or
23 municipal agency in this state or with the State of Rhode Island, and any other city or town in this
24 state and the state of Rhode Island or any quasi-public agency in this state is authorized to
25 contract with the ~~City of Warwick~~ authority with the advice and consent of the mayor, on such
26 terms as may be mutually agreed upon between them with reference to the construction,
27 maintenance, operation and the utilization of sewage works belonging to the city and authority or
28 any other city or town or municipal agency in this state and the State of Rhode Island or any
29 quasi-public agency in this state; and the ~~city~~ authority with the advice and consent of the mayor
30 may likewise contract with any other city or town or municipal agency or the State of Rhode
31 Island or any quasi-public agency in this state with regard to the disposition of sewage from
32 sewage works belonging to any of said cities or ~~town~~ towns or municipal agencies or the State of
33 Rhode Island or any quasi-public agency in this state.

34 Section 16. ~~Authority to prescribe rules and regulations governing construction, use,~~

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

19 The authority shall establish rules and regulations to allow for temporary hardship
20 waivers for those parcel owners that demonstrate undue hardship as defined in the WSA
21 regulations. The authority shall also establish an incentive program for connecting to the sewer
22 system. The city council may at any time appropriate funds to support these programs.

23 Section 17. Authority to order connection to sewer; ordering cesspool, etc., to be filled
24 up, etc. -- (a) The sewer authority with the advice and consent of the mayor in the interest of
25 public health and safety is authorized to order any abutting owner or occupant of ~~land~~ any parcel
26 where upon there is a cesspool, privy vault, OWTS, drain or other arrangement that has failed by
27 the Rhode Island department of environmental management definition upon any street in which
28 there is a sewer or in which a sewer may hereafter be constructed, to connect the sewage of such
29 premises with such sewer, and to order any owner or occupant to fill up and destroy any cesspool,
30 privy vault, drain or other arrangement on such ~~land~~ parcel for the reception of sewage. Upon the
31 service of any such order, or copy thereof, upon any such owner or occupant, to connect the
32 sewage as aforesaid, or to fill up or destroy any cesspool, privy vault, drain or other arrangement
33 for the reception of sewage, such owner or occupant shall comply therewith within thirty (30)
34 days from the time of service of such order. In case the owner or occupant to whom any such

1 order is directed shall neglect or refuse to comply therewith within thirty (30) days after the
2 service thereof upon him/her, he/she shall be fined not less than one hundred dollars (\$100.00)
3 nor more than five hundred dollars (\$500.00) for each subsequent twenty-four (24) hours during
4 which he/she shall neglect or refuse to comply therewith and in case such neglect or refusal shall
5 continue for sixty (60) days after the service of such an order, the authority may cause such
6 cesspool, privy vault, drain or other arrangement for the reception of sewage which is the subject
7 of such order to be filled up and destroyed and the sewage from such ~~land~~ [parcel](#) to be connected
8 with a common sewer. The pendency of any appeal from any such order shall not affect the
9 power of the authority, after the expiration of said period of sixty (60) days, to cause such
10 cesspool, privy vault, or other arrangement for the reception of sewage to be forthwith filled up
11 and destroyed.

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

22 (b) ~~Mandatory connection to sewer prior to sale or transfer.~~ Any ~~abutting~~ owner ~~or~~
23 ~~occupant~~ of ~~land~~ [any parcel](#) upon any street in which there is a sewer must connect the sewage of
24 such premises with such sewer and fill up and destroy any cesspool, privy vault, drain or other
25 arrangement on such ~~land~~ [parcel](#) for the reception of sewage, excluding any Rhode Island
26 department of environmental management ~~ISDS~~ [OWTS](#) approved system, prior to the one year
27 anniversary of the sale or transfer in ownership. If such abutting owner or occupant of ~~land~~ [any](#)
28 [parcel](#) who is required to connect to the sewage system fails to do so in [the](#) prescribed time
29 period, then such abutting owner or occupant of ~~land~~ [the parcel](#) shall be required to pay usage
30 fees as if such abutting owner or occupant of ~~land~~ [the parcel](#) were connected to the sewage
31 system.

32 (c) Notwithstanding the provisions of any law, rule, regulation or agreement to the
33 contrary, an abutting owner or occupant of ~~land~~ [any parcel](#) upon any street in which there is a
34 [common](#) sewer shall not be required to connect to the sewage system, except as provided under

1 subsections (a) ~~or, (b) or (c)~~(b) of this section.

2 Section 18. Plat of sewer declared public record for assessment purposes. -- Whenever a
3 common sewer is constructed under the provisions of this act, the sewer authority shall cause a
4 plat of the layout of the same and of the estates abutting upon that portion of the highway in
5 which the sewer is laid to be filed in the office of the city clerk, which ~~said~~ the plats are hereby
6 declared to be public records for the determination of the description of the estate assessed for
7 construction of sewage works.

8 Section 19. Sewer board of review; appeals; record of proceedings; organization and
9 procedure. -- There shall be a sewer board of review which shall consist of three (3) members
10 appointed by the Mayor with approval of the city council. The members first appointed shall
11 serve for terms of 1, 2 and 3 years respectively and thereafter one member shall be appointed in
12 each year for a term of three years.

13 Within 60 days after mailing of notice of an assessment or charge under section 9 or
14 within 30 days after giving or mailing of notice of an order under section 17, any person
15 aggrieved by such assessment, charge or order may appeal to the sewer board of review.

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

18 The board shall review the authority's decision to ensure that the authority's decision
19 complies with the provisions of this act and the rules and regulations promulgated thereunder. If
20 the board determines that ~~such an~~ assessment, charge or order ~~is unwarranted~~ was made in
21 violation of the express provisions of this act, either in whole or in part, it shall annul or modify
22 the same and make such order as justice may require. Otherwise it shall affirm the same. Within
23 30 days after the decision of the sewer board of review, any party aggrieved, ~~which may include~~
24 including the sewer authority, may appeal to the superior court ~~which shall have the same powers~~
25 ~~to annul, modify, enter further orders or affirm as the sewer board of review.~~

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

28 Section 20. Public Hearings. -- The authority shall be required to hold public hearings for
29 various reasons including, but not limited to, proposed annual budgets, rate increases, and for the
30 adoption of rules and regulations. The authority shall develop regulations for public hearings to
31 include notice requirements, distribution of associated documents, and response to substantive
32 and relevant comments from the public.

33 Section 22. Use of federal, other aid. -- The sewer authority of ~~said~~ the city by the vote ~~of~~
34 ~~a majority~~ of its members may vote to accept and use in connection with the construction of the

1 sewage works authorized by this act any funds from the United States of America or aid in any
2 form under any and all acts and joint resolutions of congress already enacted or which may be
3 enacted, and upon such terms and conditions as may be required by the proper federal authorities.

4 SECTION 2. This act shall take effect upon passage and the sewer authority shall adopt
5 rules and regulations within one year thereafter in accordance with this act.

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LC002619
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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 various modifications to the enabling act for the Warwick Sewer
2 Authority.

3 This act would take effect upon passage and the sewer authority would adopt rules and
4 regulations within one year thereafter in accordance with this act.

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LC002619
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