



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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MEMORANDUM

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: February 14, 2017

Subject: Amendments to Article 7 and Article 22 of the FY 2018 Appropriations Act
(17-H-5175)

The Governor requests that the original Article 7 entitled "Relating to State Funds" be replaced with the attached version. The new version adds three new sections to Article 7, renumbers all sections following the new sections, and makes a couple of technical corrections to the article. The first new section being added is 39-26.6-4, which is part of Chapter 39-26.6 entitled "The Renewable Energy Growth Program." This amendment provides that revenues generated through the rate reconciliation process to finance expenses incurred by the Rhode Island Office of Energy Resources would be transferred to the Office and deposited in a restricted receipt account established within the general fund. This amendment also provides that the new restricted receipt account would be exempted from the indirect cost recovery assessment provisions of 35-4-27.

The second new section being added to Article 7 is 42-28-49.1, which is part of Chapter 42-28 entitled "State Police." This amendment establishes a new restricted receipt account under the State Police for the receipt of reimbursements from non-state entities for which the State Police provide support. In prior years, the State Police have reflected these reimbursements as expenditure credits, thereby understating the true cost of the agency. The creation of this new account will allow both the revenues and expenditures associated with these activities to be reflected in the state budget. Because the revenues deposited into the new account are a direct reimbursement of costs incurred by the State Police, it is recommended that the new account be exempt from the indirect cost recovery assessment.

The third new section being added to Article 7 is 42-75-13, which is part of Chapter 42-75 entitled "Council on the Arts." This amendment strikes language that limits donations from the Rhode Island Foundation to the Rhode Island Council on the Arts being deposited in a restricted receipt account to FY 2010 only. With this amendment, funds given by the Rhode Island Foundation to

the Rhode Island Council on the Arts and deposited in a restricted receipt account will no longer be limited to any particular fiscal year.

The technical corrections made to Article 7 include eliminating the strikeout for the “Forfeited property – Gambling” account, which is on page 140, line 20, and correcting chapter and section number formatting on page 143, lines 25 and 27, and page 144, line 3. Eliminating the exemption from the indirect cost recovery assessment for the Attorney General’s forfeiture account was inadvertent and not an intended change in the Governor’s recommended budget.

The Governor also requests that in Article 22 entitled “Relating to Lead Poisoning Prevention” the reference on page 276, line 34 be changed from 23-24.6-4(13) to 23-24.6-4(14).

If you have any questions regarding these amendments, please feel free to call me or my staff at 222-6300.

TAM:sma 18-Amend-4

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst

ARTICLE 7

RELATING TO STATE FUNDS

SECTION 1. Section 21-28.6-17 of the General Laws in Chapter 21-28.6 entitled “The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act” is hereby amended to read as follows:

21-28.6-17 Revenue. – (a) Effective July 1, 2016, all fees collected by the departments of health and business regulation from applicants, registered patients, primary caregivers, authorized purchasers, licensed cultivators, ~~and cooperative cultivations,~~ compassion centers, and compassion center cardholders shall be placed in restricted receipt accounts to support the state's medical marijuana program-, including but not limited to payment of expenses incurred by the departments of health and business regulation for the administration of the program.

(b) All revenues remaining in the restricted receipt accounts after payments specified in subdivision (a) of this section shall first be paid to cover any existing deficit in the department of health’s restricted receipt account or the department of business regulation’s restricted receipt account. These transfers shall be made annually on the last business day of the fiscal year.

(c) All revenues remaining in the restricted receipt accounts after payments specified in subdivisions (a) and (b) shall be paid into the state’s general fund. These payments shall be made annually on the last business day of the fiscal year.

SECTION 2. Section 35-4-27 of the General Laws in Chapter 35-4 entitled “State Funds” is hereby amended to read as follows:

35-4-27 Indirect cost recoveries on restricted receipt accounts. Indirect cost recoveries of ten percent (10%) of cash receipts shall be transferred from all restricted-receipt accounts, to be recorded as general revenues in the general fund. However, there shall be no transfer from cash receipts with restrictions received exclusively: (1) From contributions from non-profit charitable organizations; (2) From the assessment of indirect cost recovery rates on federal grant funds; or (3) Through transfers from state agencies to the department of administration for the payment of debt service. These indirect cost recoveries

shall be applied to all accounts, unless prohibited by federal law or regulation, court order, or court settlement. The following restricted receipt accounts shall not be subject to the provisions of this section:

Executive Office of Health and Human Services

Organ Transplant Fund

HIV Care Grant Drug Rebates

Department of Human Services

Veterans' home – Restricted account

Veterans' home – Resident benefits

Pharmaceutical Rebates Account

Demand Side Management Grants

Veteran's Cemetery Memorial Fund

Donations – New Veterans' Home Construction

Department of Health

Providence Water Lead Grant

Lead Poisoning Prevention

Pandemic medications and equipment account

Miscellaneous Donations/Grants from Non-Profits

State Loan Repayment Match

Department of Behavioral Healthcare, Developmental Disabilities and Hospitals

Eleanor Slater non-Medicaid third-party payor account

Hospital Medicare Part D Receipts

RICLAS Group Home Operations

Commission on the Deaf and Hard of Hearing

Emergency and public communication access account

Department of Environmental Management

State Park Merchandising

National heritage revolving fund
Environmental response fund II
Underground storage tanks registration fees
Rhode Island Historical Preservation and Heritage Commission
Historic preservation revolving loan fund
Historic Preservation loan fund – Interest revenue
Department of Public Safety
Forfeited property – Retained
Forfeitures – Federal
Forfeited property – Gambling
Donation – Polygraph and Law Enforcement Training
Rhode Island State Firefighter's League Training Account
Fire Academy Training Fees Account
Attorney General
Forfeiture of property
Federal forfeitures
Attorney General multi-state account
Forfeited property – Gambling
Department of Administration
OER Reconciliation Funding
RI Health Benefits Exchange
Office of Management and Budget
Information Technology Investment Fund
Restore and replacement – Insurance coverage
Convention Center Authority rental payments
Investment Receipts – TANS

OPEB System Restricted Receipt Account

Car Rental Tax/Surcharge-Warwick Share

Housing Resources Commission Restricted Account

Department of Revenue

DMV Modernization Project

DMV Registry Technology

Jobs Tax Credit Redemption Fund

Legislature

Audit of federal assisted programs

Department of Children, Youth and Families

Children's Trust Accounts – SSI

Military Staff

RI Military Family Relief Fund

RI National Guard Counterdrug Program

Treasury

Admin. Expenses – State Retirement System

Retirement – Treasury Investment Options

Defined Contribution – Administration - RR

Violent Crimes Compensation – Refunds

Treasury Research Fellowship

Business Regulation

Banking Division Reimbursement Account

Office of the Health Insurance Commissioner Reimbursement Account

Securities Division Reimbursement Account

Commercial Licensing and Racing and Athletics Division Reimbursement Account

Insurance Division Reimbursement Account

Historic Preservation Tax Credit Account.

Judiciary

Arbitration Fund Restricted Receipt Account

Third-Party Grants

RI Judiciary Technology Surcharge Account

Department of Elementary and Secondary Education

Statewide Student Transportation Services Account

School for the Deaf Fee for Service Account

Davies Career and Technical School Local Education Aid Account

Davies – National School Breakfast & Lunch Program

Office of the Post-Secondary Commissioner

Westerly Higher Education and Industry Center

Department of Labor and Training

Job Development Fund

Department of Transportation

Rhode Island Highway Maintenance Account

SECTION 3. Title 35 of the General Laws entitled “Public Finance” is hereby amended by adding thereto the following chapter:

CHAPTER 35-4.1

PERFORMANCE IMPROVEMENT FUND ACT

35-4.1-1 Legislative findings. – The general assembly finds and recognizes:

(a) The importance of pursuing data-driven approaches to improving service delivery, and that limited state resources should be allocated based on proven results, not inputs or promised successes.

(b) That pay for success contracts provide an opportunity for the state to address the challenges of improving service delivery with limited resources as these contracts both:

(1) Create incentives for improved performance and reduced costs, allow for more rapid learning about which programs work and which do not, and accelerate the adoption of new, more effective solutions, and

(2) Provide a mechanism to bring upfront financial support from the private and nonprofit sectors to innovative social programs that the state only repays if contractual performance targets are achieved, thereby reducing the state's financial risk in supporting innovative initiatives.

35-4.1-2 Definitions. – For the purpose of this chapter:

(a) "Performance targets" means the level of performance, as measured by an independent evaluator, which represent success. Success is defined in the pay for success contract.

(b) "Independent evaluator" means an independent entity selected by the state whose role includes assessing and reporting on the achievement of performance targets at the frequency required in the pay for success contract.

(c) "Success payments" refer to the payments that the state will make only if contractual performance targets are achieved as determined by the independent evaluator and approved by the office of management and budget.

(d) "Pay for success contracts" are contracts designed to improve outcomes and lower costs for contracted government services that are subject to the following requirements:

(1) A determination that the contract will result in significant performance improvements and budgetary savings across all impacted agencies if the performance targets are achieved;

(2) A requirement that a substantial portion of any payment be conditioned on the achievement of specific outcomes based on defined performance targets;

(3) An objective process by which an independent evaluator will determine whether the performance targets have been achieved;

(4) A calculation of the amount and timing of payments that would be earned by the service provider during each year of the agreement if performance targets are achieved as determined by the independent evaluator; and

(5) Payments shall only be made if performance targets are achieved.

35-4.1-3 Creation of the Government Performance Improvement Fund. – (a) There is hereby created and established in the state treasury a fund to be known as the “government performance improvement fund” to which shall be deposited appropriations as may be made from time to time by the general assembly. All money now or hereafter in the government performance improvement fund are hereby dedicated for the purpose of funding pay for success contracts.

(b) By signing the pay for success contract, the authorizing department or agency is confirming that the contract has met the requirements established in this chapter.

(c) The department of administration is charged with the administration of this fund for the purposes specified in this section, and may make payments from the fund only in accordance with the terms and conditions of pay for success contracts and upon approval of the director of the office of management and budget. All claims against the fund shall be examined, audited, and allowed in the manner now or hereafter provided by law for claims against the state.

(d) The department of administration shall provide an annual status report for the prior fiscal year on all contracts not later than December 31 of each year to the house and senate finance committees.

SECTION 4. Section 39-26.6-4 of the General Laws in Chapter 39-26.6 entitled “The Renewable Energy Growth Program” is hereby amended to read as follows:

39-26.6-4 Continuation of board. (a) The distributed generation standard contract board shall remain fully constituted and authorized as provided in chapter 26.2 of title 39; provided, however, that the name shall be changed to the "distributed-generation board". Additional purposes of the board shall be to:

(1) Evaluate and make recommendations to the commission regarding ceiling prices and annual targets, the make-up of renewable-energy classifications eligible under the distributed-generation growth program, the terms of the tariffs, and other duties as set forth in this chapter;

(2) Provide consistent, comprehensive, informed, and publicly accountable involvement by representatives of all interested stakeholders affected by, involved with, or knowledgeable about the

development of distributed-generation projects that are eligible for performance-based incentives under the distributed-generation growth program; and

(3) Monitor and evaluate the effectiveness of the distributed-generation growth program.

(b) The office, in consultation with the board, shall be authorized to hire, or to request the electric-distribution company to hire, the services of qualified consultants to perform ceiling price studies subject to commission approval that shall be granted or denied within sixty (60) days of receipt of such request from the office. The cost of such studies shall be recoverable through the rate-reconciliation provisions of the electric-distribution company set forth in § 39-26.6-25, subject to commission approval. In addition, the office, in consultation with the board, may request the commission to approve other costs incurred by the board, office, or the electric-distribution company to utilize consultants for annual programmatic services or to perform any other studies and reports, subject to the review and approval of the commission, that shall be granted or denied within one hundred twenty (120) days of receipt of such request from the office, and that shall be recoverable through the same reconciliation provisions.

(c) Revenues generated through the rate reconciliation process to finance the expenses incurred as outlined in section (b) shall be transferred to the office and deposited in a restricted receipt account within the general fund. The restricted receipt account shall be exempt from the indirect cost recovery assessment under section 35-4-27.

SECTION 5. Chapter 42-17.1 of the General Laws entitled "Department of Environmental Management" is hereby amended by adding thereto the following sections:

42-17.1-26. Parks and Recreation Merchandising. There is hereby established within the department of environmental management a restricted receipt account entitled "state park merchandising." All proceeds from the sale of merchandise developed by the department to promote Rhode Island's state parks, beaches, and campgrounds shall be deposited into the restricted receipt account. The monies deposited into this account shall be specifically used to (1) replenish merchandise stock and (2) provide additional funding for special park projects that enhance recreational facilities and/or expand interpretive, educational and recreational programming managed by the department. Funds generated by the sale of

merchandise shall not be used to supplement the annual operating expenses of the division of parks and recreation.

42-17.1-27 Eisenhower House – Rental fees. (a) There is hereby established within the department of environmental management a restricted receipt account entitled “Eisenhower house”. All proceeds from rental fees for the use of the Eisenhower house and its surrounding grounds shall be deposited into this account and used for reinvestment and maintenance of the facility. The rental fees for the use of Eisenhower house and surrounding grounds shall be established by regulation. The department of environmental management may require certain attendants to be present during rental hours, and may require the lessees to reimburse the cost of such service provided to reflect the actual cost to the department. The department may also require reasonable amounts of liability insurance to be obtained by the lessee.

(b) The department of environmental management and the state shall not be civilly liable for the acts or omissions of the lessees of the Eisenhower house.

SECTION 6. Chapter 42-18 of the General Laws entitled “State Police” is hereby amended by adding thereto the following section:

42-28-49.1 Non-State Agency Reimbursements. There is hereby established within the general fund a restricted receipt account to be known as the “state police non-state agency reimbursements” account. All revenues deposited into the account from non-state agencies shall be used to reimburse the state police for costs incurred in support of non-state agency programs and activities. All funds deposited into the account shall be exempt from the indirect cost recovery provisions of 35-4-7.

SECTION 7. Section 42-45-12 of the General Laws entitled “Rhode Island Historical Preservation and Heritage Commission” is hereby repealed.

~~**42-45-12 Eisenhower House – Rental fees.** (a) The historical preservation and heritage commission is hereby authorized to collect rental fees for use of the Eisenhower House and surrounding grounds. The rental fees shall be established by regulation. All fees collected under this section shall be deposited as general revenues. The historical preservation and heritage commission may require certain attendants to be present during rental hours and may require the lessees to reimburse the cost of such service~~

~~provided such cost reflect the actual cost of the commission. The commission may also require reasonable amounts of liability insurance to be obtained by the lessee.~~

~~(b) The historical preservation and heritage commission and the state shall not be civilly liable for the acts or omissions of the lessees of the Eisenhower House.~~

SECTION 8. Section 42-75-13 of the General Laws in Chapter 42-75 entitled "Council on the Arts" is hereby amended to read as follows:

42-75-13 Appropriation. (a) During the fiscal year ending June 30, 2008, the state lottery division within the department of revenue shall conduct, pursuant to chapter 62.61 of the general laws, an instant game to be known as the "Arts Lottery Game." The net revenue from the first three (3) months of the running of the "Arts Lottery Game" shall be deposited in a restricted revenue account to be used by the Rhode Island Council on the Arts for the support and improvement of the arts in this state. The provisions of this section shall prevail over any inconsistent provisions of chapter 42-61.

~~(b) During the fiscal year ending June 30, 2010, the The Rhode Island Council on the Arts shall deposit any funds received from the Rhode Island Foundation in a restricted receipt account to be used for the support and improvement of the arts in this state. All such funds deposited shall be exempt from the indirect cost recovery provisions of § 35-4-7.~~

SECTION 9. Section 44-1-36 of the General Laws in Chapter 44-1 entitled "State Tax Officials" is hereby amended to read as follows:

44-1-36 Contracts. (a) Except as set forth in section (b) below, the division of taxation may enter into contracts with persons (defined herein as individuals, firms, fiduciaries, partnerships, corporations, trusts, or associations, however formed) to be paid on a contingent fee basis, for services rendered to the division of taxation where the contract is for the collection of taxes, interest, or penalty or the reduction of refunds claimed. Under such contracts the contingent fee shall be based on the actual amount of taxes, interest and/or penalties collected and/or the amount by which the claimed refund is reduced.

(b) The division of taxation may not enter into a contingent fee contract under which the person directly conducts a field audit.

(c) The division of taxation shall publish an annual report setting forth the number of contracts entered into under paragraph (a), the amount collected and the percentage of the contingency fee arrangement of each contract.

(d) With respect to any contingent fee contract entered into pursuant to subsection (a) above, the division of taxation is authorized to utilize a portion of the balance of monies collected under said contract(s) after payment of the contingent fee payable thereunder, for the support and maintenance of the division's computer system, as authorized by the director of the office of management and budget.

SECTION 10. This article shall take effect as of July 1, 2017.