

**2015 -- S 0864 SUBSTITUTE A AS AMENDED**

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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: Senators Walaska, and Lynch

Date Introduced: April 28, 2015

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 1, 2, 3, 4, 8, 9, 9.1, 10, 11, 13, 14, 15, 16, 17, 18, 19 and 22 of  
2 Chapter 254 of the Public Laws of 1962 entitled "An Act to Create a Sewer Authority for the City  
3 of Warwick and to Authorize said City to Plan, Construct, Finance, Operate and Maintain Sewage  
4 Works", as amended, ~~is~~ 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, to plan, lay out, construct, finance, operate and  
8 maintain sewage works for a part of 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 necessary for accomplishing any purpose mentioned in this Act. Such sewage  
11 works may include sewers and sewer service connections pumping stations, sewage treatment  
12 works, sewage disposal works, and other works essential to the proper collection, treatment, and  
13 disposal of the sewage of said City.

14           As used in the Act, unless the context otherwise requires:

15           "Authority" means the Sewer Authority authorized by this Act.

16           "Cesspool" means any buried chamber other than an on-site wastewater treatment system  
17 (OWTS), including, but not limited to, any metal tank, perforated concrete vault or covered  
18 hollow or excavation, which receives discharges of sanitary sewage from a building for the  
19 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-water~~ wastewater from air conditioning,  
6 industrial cooling, condensing and similar apparatus and from hydraulically powered equipment.  
7 In general, cooling water will include only water which is sufficiently clean and unpolluted to  
8 admit of being discharged, without treatment or purification, into any natural open stream or  
9 watercourse without 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, wastewaters 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-water~~ wastewater, water carried wastes, or a combination of

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

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

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

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

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

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

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

29 "Storm water" shall include the runoff or discharge of rain and melted snow or other  
30 clean water from roofs, surfaces of public or private ~~lands~~ parcels or elsewhere. For most  
31 purposes within the scope of this ordinance, storm water shall not include the flow of any natural  
32 brook, rivulet or stream even if the source of such water is storm runoff from ~~land~~ parcels, land or  
33 other property once that runoff has entered the channel of such brook or natural watercourse. In  
34 general, storm water shall include only water which is sufficiently clean and unpolluted to admit

1 of being discharged, without treatment or purification, into any natural open stream or  
2 watercourse without offense.

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

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

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

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

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

28 Section 2. Sewer Authority. -- There shall be a bi-partisan sewer authority for the city  
29 consisting of five (5) qualified electors of the city, not more than three (3) of whom shall be  
30 members of the same political party, to be appointed by the mayor subject to confirmation by the  
31 city council. It shall be the purpose of the sewer authority to provide wastewater collection and  
32 treatment services to the City of Warwick in a cost effective and environmentally sound manner.  
33 ~~Upon passage of this act, the~~ The mayor, ~~within eight (80) days thereafter,~~ shall appoint the five  
34 (5) members of the authority, two (2) of each from lists of ~~ten (10)~~ not less than three (3) names

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

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

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

34         ~~The authority appointed by the provisions of this section, until the remaining sections of~~

1 ~~this act take effect upon acceptance by referendum as further provided herein, shall have the~~  
2 ~~following interim powers and duties:~~

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

6 Such activities may include:

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

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

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

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

14 Section 3. ~~Preparation of plans Public hearing Reports Specifications Estimates~~  
15 [Preparation of plans; public hearing; reports; specifications; estimates.](#) –

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

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

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

1 issued as hereinafter provided.

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

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

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

1 fails to vote, indicating such fact; and shall keep records of its examinations and of other official  
2 actions, all of which shall be filed and shall be a public record.

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

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

22 Such assessments, ~~annual and connect capable charges~~ herein referred shall be paid by  
23 every ~~property parcel~~ owner ~~or institution~~ whose ~~property parcel is or can be connected to the city~~  
24 ~~sewage works,~~ abuts on that portion of any highway in which a common sewer is laid, under this  
25 act, in a manner prescribed by the authority, with the approval of the mayor and the finance  
26 director. Such annual user charges herein referred shall be paid by every parcel owner whose  
27 parcel is connected to a common sewer, or in accordance with section 17(b), in a manner  
28 prescribed by the authority, with the approval of the mayor and 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 ~~pareel~~ parcels remain subject to  
32 assessment upon the ~~earlier to occur of either, (i) development~~ or redevelopment of such ~~pareel~~  
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 ~~septic system~~ OWTS 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 least seven (7)~~ twenty (20) 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 the sewer systems in an amount that  
9 bears a reasonable relation to the cost of construction to the city and authority of the service  
10 rendered to the users, which method(s) may include, but is not limited to, according to the  
11 frontage along the highway of each parcel of land abutting on a common sewer, ~~or according to~~  
12 the area of such land within a fixed depth from the highway, or ~~according to both such frontage~~  
13 ~~and area~~ other alternative methods. The sewer authority with the advice and consent of the mayor  
14 may, from time to time, redetermine the rates fixed for sewer assessments, if construction costs  
15 ~~warrants~~ warrant, and may redetermine rates for ~~annual and connect capable~~ user charges if costs  
16 so warrant.

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

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

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

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

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

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

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

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

26 Section 10. ~~Receipts from annual charges and assessments~~ Receipts from user charges  
27 and assessments. -- The receipts from ~~annual user~~ charges ~~and~~; sewer assessments ~~and connect~~  
28 ~~capable charges~~, as provided for in section 9 of this act, should be separately accounted for by the  
29 finance director at the close of each fiscal year the city treasurer shall transfer from such funds to  
30 the treasury a sum sufficient to repay the sums appropriated and paid from the treasury during the  
31 fiscal year then close on account of the principal and interest of all borrowing for the purpose of  
32 this act and for the payment of charges and expenses incident to the operation, maintenance,  
33 renewal and replacement fund and repair of said sewage works or to the extension thereof. At the  
34 end of a fiscal year, if the finance director determines that the revenues referred to above as well

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

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

24 Section 13. ~~Assessments for land held by religious corporations, cemeteries~~ Assessments  
25 for parcels held by religious corporations, cemeteries. -- All ~~lands~~ parcels in ~~said~~ the city held by  
26 religious corporations, and on which are located buildings used solely for the purpose of holding  
27 religious services therein, and all ~~lands~~ parcels in ~~said~~ the city held by cemetery corporations and  
28 used solely for cemetery purposes, shall be exempt from the payment of any and all sewer  
29 assessments for the construction of sewage works made in pursuance of the provisions of this act  
30 and according to the sewer authority's rules and regulations, so long as such ~~lands~~ parcels shall be  
31 held and used solely for such purposes; provided, that all such assessments made on such ~~lands~~  
32 parcels for the construction of sewage works under the provisions of this act shall be and remain  
33 ~~for thirty (30) years~~ a lien on ~~said~~ the ~~lands~~ parcels and the improvements thereon without  
34 interest, and the ~~said~~ city may enforce for collection of ~~said~~ the assessments whenever ~~said~~ the

1 ~~lands parcels~~ or any portion thereof shall be abandoned ~~for from said~~ the above-listed purposes, in  
2 the same manner as other sewer assessments under this act are collected or enforced; ~~and~~  
3 ~~provided, further, that any such assessment may be adjusted in the manner and for any of the~~  
4 ~~reasons prescribed in section 12 of this act.~~

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

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

30 The authority with the advice and consent of the mayor shall have general authority to  
31 represent the city and to make any agreements for said city under the authority of this section and  
32 to do, with the advice and consent of the mayor, any acts or things necessary or incidental to  
33 executing settlements and agreements, and shall have authority to agree with the owner for the  
34 price of land so taken and the same shall be paid by the city treasurer out of the proceeds of bonds

1 or notes issued hereunder or other funds made available for the purpose, upon vouchers approved  
2 by the ~~majority of the~~ authority and the finance director.

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

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

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

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

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

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

32 Section 16. ~~Authority to prescribe rules and regulations governing construction, use,~~  
33 ~~discharge of substances, and connections~~ Authority to prescribe rules and regulations governing  
34 construction, use, discharge of substances, connections and sewer assessments. -- The sewer

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Section 22. Use of federal, other aid. --

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

33 SECTION 2. Section 12 of chapter 254 of the public laws of 1962, entitled "An Act to  
34 Create a Sewer Authority for the City of Warwick and to Authorize said city to plan, construct,

1 finance, operate, and maintain sewage works", as amended, is hereby repealed.

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

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

12 SECTION 3. Public Laws of 1962 entitled "An Act to Create a Sewer Authority for the  
13 City of Warwick and to Authorize said City to Plan, Construct, Finance, Operate, and Maintain  
14 Sewage Works", as amended is hereby further amended by adding thereto the following sections:

15 Section 26. Public Hearings. -- The authority shall be required to hold public hearings for  
16 various reasons including, but not limited to, proposed annual budgets, rate increases, and for the  
17 adoption of rules and regulations. The authority shall develop regulations for public hearings to  
18 include notice requirements, distribution of associated documents, and response to substantive  
19 and relevant comments from the public.

20 Section 27. Compliance with General Laws; wastewater management; septic system loan  
21 programs. -- (a) The authority shall comply with chapter 22.2 of title 45 (Rhode Island  
22 Comprehensive Planning and Land Use Act).

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

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LC002509/SUB A/2  
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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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LC002509/SUB A/2  
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