

Chapter 482
2014 -- S 2585 SUBSTITUTE A AS AMENDED
Enacted 07/08/14

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - QUASI-PUBLIC CORPORATIONS
ACCOUNTABILITY AND TRANSPARENCY ACT

Introduced By: Senators Sheehan, DiPalma, Sosnowski, Walaska, and Algieri
Date Introduced: March 04, 2014

It is enacted by the General Assembly as follows:

SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 155

QUASI-PUBLIC CORPORATIONS ACCOUNTABILITY AND TRANSPARENCY ACT

42-155-1. Title. -- This chapter shall be known and may be cited as the "Quasi-Public Corporations Accountability and Transparency Act."

42-155-2. Legislative findings. -- It is hereby found that:

(1) Quasi-public corporations are established and empowered by state law, and would not exist but for their relationship with the state.

(2) Quasi-public corporations perform essential government functions and/or provide essential government services.

(3) Many quasi-public corporations are granted the public power to collect fees and/or generate other revenue and incur debt.

(4) Quasi-public corporations manage significant public resources; however, the majority are exempt from many kinds of public oversight, such as executive and legislative budgetary review required of state agencies and departments.

(5) It is essential that quasi-public corporations provide more, not less, transparency by making their decisions and budgets especially transparent and open to public scrutiny, and by demonstrating a commitment to protecting the interests of Rhode Island taxpayers by achieving the highest standards of transparent, effective, and ethical operation.

(6) Quasi-public corporations are governed by independent boards that serve a critical oversight function and there exists a need to strengthen the ability of board members to carry out this oversight role.

(7) Rhode Island citizens rely on their government to provide oversight of quasi-public corporations, with a goal of ensuring that these state entities carry out their government missions effectively, and exemplify a commitment to transparent, accountable, and effective government.

(8) The general assembly has made comprehensive amendments to the Rhode Island commerce corporation's enabling legislation to enhance transparency and accountability; provide board members with additional tools to exercise crucial oversight; establish increased reporting requirements; and establish regularly scheduled audits of the corporation. All Rhode Island quasi-public corporations should be held to these higher standards of transparency and accountability.

42-155-3. Definitions. -- (a) As used in this chapter, "quasi-public corporation" means any body corporate and politic created, or to be created, pursuant to the general laws, including, but not limited to, the following:

(1) Capital center commission;

(2) Rhode Island convention center authority;

(3) Rhode Island industrial facilities corporation;

- (4) Rhode Island industrial-recreational building authority;
- (5) Rhode Island small business loan fund corporation;
- (6) Quonset development corporation;
- (7) Rhode Island airport corporation;
- (8) I-195 redevelopment district commission;
- (9) Rhode Island health and educational building corporation;
- (10) Rhode Island housing and mortgage finance corporation;
- (11) Rhode Island higher education assistance authority;
- (12) Rhode Island student loan authority;
- (13) Narragansett bay commission;
- (14) Rhode Island clean water finance agency;
- (15) Rhode Island water resources board;
- (16) Rhode Island resource recovery corporation;
- (17) Rhode Island public rail corporation;
- (18) Rhode Island public transit authority;
- (19) Rhode Island turnpike and bridge authority;
- (20) Rhode Island tobacco settlement financing corporation; and
- (21) Any subsidiary of the Rhode Island commerce corporation.

(b) Cities, towns, and any corporation created that is an instrumentality and agency of a city or town, and any corporation created by a state law that has been authorized to transact business and exercise its powers by a city or town pursuant to ordinance or resolution, and fire and water districts are not subject to the provisions of this chapter.

(c) The Rhode Island commerce corporation, being subject to similar transparency and accountability requirements set forth in chapter 64 of title 42; the Rhode Island public rail corporation established in chapter 64.2 of title 42; Block Island power authority; and the Pascoag utility district shall not be subject to the provisions of this chapter.

42-155-4. Role and responsibilities of board members. -- (a) Board members of quasi- public corporations shall:

(1) Execute oversight of the corporation, the chief executive, and other management in the effective and ethical management of the corporation;

(2) Understand, review, and monitor the implementation of fundamental financial and management controls and operational decisions of the corporation;

(3) Adopt a code of ethics applicable to each officer, director, and employee of the corporation that, at a minimum, includes the standards established in chapter 14 of title 36 ("Code of Ethics");

(4) Adopt a mission statement expressing the purpose and goals of the corporation, a description of the stakeholders of the corporation and their reasonable expectations from the corporation, and a list of measurements by which performance of the corporation and the achievement of its goals may be evaluated. Each corporation shall, at least once every three (3) years, publish a self-evaluation based on the stated measurements;

(5) Adopt and periodically update an indemnification policy that shall be set forth in the bylaws of the corporation; and

(6) Perform each of their duties as board members, including, but not limited to, those imposed by this section, in good faith and with that degree of diligence, care, and skill that an ordinarily prudent person in like position would use under similar circumstances, and ultimately apply independent judgment in the best interest of the quasi-public corporation, its mission, and the public;

(b) Board members of quasi-public corporations shall establish and maintain written policies and procedures for the following:

(1) Internal accounting and administrative controls in accordance with the provisions of chapter 20 of title 35, the "Public Corporation Financial Integrity and Accountability Act of 1995";

(2) Travel, including lodging, meals, and incidental expenses; provided, however, that no reimbursement shall exceed the allowable state employee reimbursement amount per day;

(3) Grants, charitable and civic donations, and/or contributions; provided, however, that all such grants, donations, or contributions shall be voted on by the full board during an open meeting and the vote shall be recorded in the minutes of the meeting, together with:

(i) The citation to the specific state statute authorizing the action;
(ii) An explanation of how the grant, donation, or contribution relates to the corporation's mission;
(iii) The identity of each board member or employee of the corporation who will receive any benefit from the grant, donation, or contribution including, without limitation, tickets to events, meals, and golf;
(iv) Any disclosure required by chapter 14 of title 36 ("Code of Ethics"); and
(v) Each such grant, donation, or contribution shall be clearly identified in the financial statements of the corporation.

(4) Credit card use; provided, however, that pursuant to § 35-20-10, no credit card shall be used for personal use;

(5) Employee reimbursement, including requests by management for business expenses and expenses classified as gifts or entertainment;

(6) Personnel, including hiring, dismissing, promoting, and compensating employees of the corporation;

(7) Marketing expenses; and

(8) Lobbyists' expenses.

(c) The written policies and procedures required by this section and any additional written policies and procedures that the board may adopt shall be approved by the board during an open meeting and the vote shall be recorded in the minutes of the meeting.

(d) No board member shall serve in a paid capacity as an employee or consultant of the corporation.

42-155-5. Executive compensation. -- (a) Each quasi-public corporation shall establish a committee on executive compensation, comprised solely of board members that shall:

(1) Recommend to the full board the compensation packages of the executive and senior management of the corporation. The compensation package of the executive officer shall be based on a comprehensive and objective analysis of comparable compensation of similar officers of state government, other authorities, quasi-public corporations, and private-sector employees with similar functions and responsibilities. The committee may retain a consultant to assist in the comparability study. When calculating compensation, the committee shall consider the value of the retirement plan in the overall compensation package;

(2) Prepare clear, written job descriptions and clear, written expectations of job performance for the executive officer and senior management;

(3) Conduct the job performance review of the executive officer at least annually; and

(4) Negotiate the employment contract of the executive officer which shall be approved by the full board during an open meeting.

42-155-6. Transparency requirements established. -- The following shall be public and, available to the public upon request and posted directly, or via direct link, on the website of each quasi-public corporation:

(1) Job descriptions of the executive director and management;

(2) Compensation comparability studies of the executive;

(3) Quarterly financial statements;

(4) Capital improvement plans;

(5) Operating budgets;

(6) Strategic plan;

(7) Agendas and minutes of the open meetings of the board;

(8) Quarterly contracting reports required by § 42-90-1;

(9) Regulations adopted by the quasi-public corporation;

(10) Enabling legislation;

(11) Mission statement;

(12) Board members;

(13) Organizational chart;

(14) By laws of the quasi-public corporation;

(15) All reports and audits required by this chapter.

42-155-7. Audit of quasi-public corporations. -- (a) Commencing January 1, 2015, and every five (5) years thereafter, each quasi-public corporation shall be subject to a performance audit, conducted in compliance with the generally acceptable governmental auditing standards, by the chief of the bureau of audits. The chief, in collaboration with the quasi-public corporation, shall determine the scope of the audit. To assist in the performance of an audit, the chief, in collaboration with the quasi-public corporation, may procure the

services of a certified public accounting firm, which shall be a subcontractor of the bureau of audits, and shall be under the direct supervision of the bureau of audits. The chief of the bureau of audits shall establish a rotating schedule identifying the year in which each quasi-public corporation shall be audited. The schedule shall be posted on the website of the bureau of audits.

(b) The audit shall be conducted in conformance with chapter 7 of title 35 ("Post Audit of Accounting").

(c) Each quasi-public corporation shall be responsible for costs associated with its own audit. The chief and each quasi-public corporation shall agree upon reasonable costs for the audit, not to exceed seventy-five thousand dollars (\$75,000), that shall be remitted to the bureau of audits.

(d) The results of the audit shall be made public upon completion and posted on the websites of the bureau of audits and the quasi-public corporation.

(e) For purposes of this section, a performance audit shall mean an independent examination of a program, function, operation, or the management systems and procedures of a governmental or nonprofit entity to assess whether the entity is achieving economy, efficiency, and effectiveness in the employment of an available resources.

42-155-8. Outside employment. -- No employee of a quasi-public corporation may accept outside employment that will impair his or her judgment as to duties and responsibilities in the course of employment with the quasi-public corporation. Generally, outside employment is barred if the private employer can benefit from the official actions of the employee of the quasi-public corporation.

42-155-9. Rules and regulations and other statutes. -- When issuing rules and regulations, or any amendments to rules and regulations, or when adopting by laws or amendments to bylaws, each quasi-public corporation shall be subject to the provisions of chapter 35 of title 42 ("Administrative Procedures "). All quasi-public corporations shall be subject to the provisions of chapter 46 of title 42 ("Open Meetings"), chapter 2 of title 38 ("Access to Public Records"), and chapter 14 of title 36 ("Code of Ethics").

42-155-10. Severability. -- If any provision of this chapter, or of any rule or regulation made under this chapter, or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of the provision to other persons or circumstances shall not be affected by this invalidity. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of the chapter.

SECTION 2. This act shall take effect on January 1, 2015.

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