

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO THE DEPARTMENT OF ADMINISTRATION

Introduced By: Senators Sheehan, Sosnowski, Lenihan, Roberts, and Breene

Date Introduced: February 09, 2006

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

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

3 CHAPTER 17.9

4 PRESERVATION OF STATE OPEN SPACE

5 **42-17.9-1. Findings.** -- The general assembly finds and declares that the preservation of
6 open space and the protection of natural resources values are a fundamental interest of the state an
7 essential function of state government, that property has been acquired and managed by the state
8 for open space values and associated natural resource purposes, and that the state needs clear,
9 consistent, and explicit policy restricting conveyances of state property acquired or managed for
10 open space purposes or natural resources values.

11 **42-17.9-2. Purposes.** -- The purposes of this chapter are:

12 (1) to protect and support the public's interests in open space values as a means of
13 preserving the use and the enjoyment of the natural resources of the state, of enhancing
14 environmental quality and functionality, of defining and enhancing the sense of place, of
15 providing recreational opportunities, and of contributing to the quality of life;

16 (2) to recognize, respect, and protect the interests and investments of non-profit
17 organizations, foundations, federal government, land-owners, the original grantors and donors in
18 properties acquired and or managed for open space values;

19 (3) to assure that the conveyance of interests in state properties with open space values is

1 to the maximum extent reasonably feasible not inconsistent with the state guide plan and elements
2 thereof, and with local comprehensive plans and elements thereof that have been approved as
3 consistent with the state guide plan;

4 (4) to provide a comprehensive evaluation of open space values prior to the conveyance
5 of state interests in property or formal amendments to or changes in allowed use, with the
6 objectives of preserving and protecting the public's interest in open space; but

7 (5) not to reduce or abrogate levels of protection accorded to state-owned property
8 acquired and managed for open space, conservation, and/or natural resource values; and

9 (6) to provide a model for public open space protection.

10 **42-17.9-3. The state's interest in natural resource values.** -- For purposes of this
11 chapter, the state's interest in open space values shall mean interests established by law or by
12 investment of public resources and shall include the natural resource, recreational, habitat and
13 ecological, water supply, agricultural, soil conservation, and forestry values of lands, wetlands,
14 and waters, acquired, preserved, conserved, and/or protected under the provisions of law.

15 **42-17.9-4. Limitation of application.** -- The evaluation procedures to be implemented
16 pursuant to sections 42-17.9 and 42-17.9-7 of this chapter shall apply only to properties or
17 portions of properties where the state is the sole property owner, or the state through a grant,
18 lease-hold, or other legal instrument has the functional equivalent of ownership and the state
19 controls the use of the property.

20 **42-17.9-5. Rulemaking by the department.** -- The department of environmental
21 management, in consultation with the department of administration, shall by March 15, 2007,
22 establish by rule, integrated standards and guidelines for preserving and protecting the state's
23 interest in open space values; the department shall report on or before January 15, 2007, to the
24 speaker of the house, the president of the senate, the chairperson of the house committee on
25 environment and natural resources and the chairperson of the senate committee on environment
26 and agriculture on the status of the development of said standards and guidelines.

27 (a) Said standards and guidelines shall set forth and provide for the implementation of
28 criteria for evaluating actions that would convey or amend state interests or constitute changes in
29 use of state-owned and managed property requiring the approval of the department of
30 administration or the state properties committee. Said criteria shall provide at a minimum: (1) that
31 any conveyance or amendment affecting the state's interest in open space values of such property
32 shall serve a necessary public interest and is the minimum needed to achieve the purposes of the
33 conveyance, amendment, or change in use; and (2) that to the extent reasonably feasible there is
34 no net loss of open space values as a result of such conveyance, amendment, or change in use;

1 and (3) that prior to any sale, transfer, conveyance and/or amendment of interests, which would
2 adversely affect open space values, in state-owned property that was acquired and/or dedicated to
3 and managed for open space purposes, a new and not yet conserved parcel at least equal in open
4 space values and acreage shall be acquired by the state for conservation purposes provided this
5 criterion shall not apply in instances of declared disasters or emergencies or in instances of
6 imminent threat to public health or public safety.

7 (b) Said standards and guidelines may provide for a determination that a parcel other than
8 a parcel acquired or managed for open space purposes or natural resources values does not have
9 significant open space value or that a specific amendment or change in use or type of use would
10 not have a significant impact on open space values, in which case the use of standards, guidelines,
11 and evaluation criteria as provided for in sections 42-17.9-6 and 42-17.9-7 shall not be required.

12 (c) Said standards and guidelines shall be reviewed by the department at least once every
13 five (5) years and shall either be amended or affirmed by the department as appropriate.

14 **42-17.9-6. Applicability of standards, guidelines, and evaluation criteria. --** The
15 standards, guidelines, and evaluation criteria shall be used by any state agency proposing a sale,
16 transfer, conveyance and/or amendment of interests in state-owned property and shall be
17 applicable to the sale, transfer, conveyance and/or amendment of interests in property subject to
18 the provisions of chapters 37-6 and 37-7, but shall not be deemed either to abridge, impair, or
19 restrict, the planning, management, or regulatory authority of state departments and agencies with
20 responsibility for conserving, preserving, protecting, using, managing and enhancing natural
21 resources under the jurisdiction of such departments and agencies or to contravene location or use
22 decisions specifically provided for in statute or approved by referendum.

23 **42-17.9-7. Use of evaluation criteria. --** Prior to a final action subject to the evaluation
24 criteria, the agency proposing the sale, transfer, conveyance and/or amendment of interests in
25 state property shall submit to the state properties committee an evaluation of the effect of the
26 proposed action on the state's interest in open space values; the agency may submit a finding of
27 no significant impact, other than for a property acquired and managed for open space values. The
28 evaluation by the agency shall be a matter of record and shall be considered by the state
29 properties committee in rendering its decision with regard to the transaction.

30 **42-17.9-7. Reporting. --** The director of administration shall report annually by January
31 1 of each year to the governor, the speaker of the house, the president of the senate, the
32 chairperson of the house committee on environment and natural resources and the chairperson of
33 the senate committee on environment and agriculture with regard to the use of said standards,
34 guidelines and criteria, in final decisions made by the state properties committee during the

1 [preceding fiscal year.](#)

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

=====
LC00336/SUB A/3
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO THE DEPARTMENT OF ADMINISTRATION

- 1 This act would require and set guidelines and standards for evaluation of the natural
- 2 resource values of state properties prior to conveyance or other change in use in order to protect
- 3 and support the public's interest in open space.
- 4 This act would take effect upon passage.

=====
LC00336/SUB A/
=====