



OFFICE OF MANAGEMENT & BUDGET


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MEMORANDUM

To: The Honorable Marvin L. Abney, Chairman, House Finance Committee
The Honorable Louis P. DiPalma, Chairman, Senate Finance Committee

From: Joseph Codega Jr., Budget Officer 

Date: March 8, 2023

Subject: Amendments to FY 2024 Appropriations Act (23-H-5200)

The Governor requests that several budget article amendments be made under the FY 2024 Appropriations Act as follows:

- Amend Article 3 – Relating to Government Reform and Reorganization to update annual reporting requirements to refer to the Department of Housing instead of Department of Administration, Division of Statewide Planning. The Department of Housing continues to evaluate and review statutory housing-related reporting requirements.
- Amend Article 4 – Relating to Taxes to reduce the minimum annual interest rate for delinquent trust fund taxes to 12% from 18% beginning in tax year 2024 and adjusting effective dates as necessary. This will reduce general revenues by \$187,468 in FY 2024 and \$576,482 in FY 2025.
- Amend Article 6 – Relating to Small Business to correct statutory references and the effective date.
- Amend Article 8 – Relating to Education to increase the cap on Last Dollar Scholarship funding for qualified students attending participating, independent, non-profit, higher education institutions in Rhode Island to \$1,750,000 from \$1,500,000.

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

JC: 23-Amend-6
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
James E. Thorsen, Director of Administration
Brian Daniels, Director, Office of Management and Budget

H 5200, RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2024

Article 3 – Relating to Government Reform and Reorganization

New SECTIONS 10 and 11, Page 83, before Line 1: Insert new Sections 10 and 11 as included in Appendix 3 attached to this memo and renumber all subsequent sections accordingly. This amends Article 3 to shift annual housing-related reporting requirements from the Department of Administration, Division of Statewide Planning to the Department of Housing.

Section 7, Page 76, Line 25: strike Section 7 in its entirety and replace with:

New SECTION 7: Appendix 4 attached to this memo replaces Article 3, Section 7 in its entirety and replaces it with a new Section 7 which adds a requirement that a disparity study be conducted every five years, beginning in FY 2025, to evaluate the need for the development of programs to enhance participation in State contracts of business enterprises owned by women and minorities.

Article 4 – Relating to Taxes

New SECTION 2, Page 89, after Line 28: Insert new Section 2 as included in Appendix 1 attached to this memo and renumber all subsequent sections accordingly. This amends Article 4 to reduce the minimum annual interest rate for delinquent trust fund taxes to 12% from 18% beginning in tax year 2024. This section will take effect upon passage.

Current Section 6, Page 99, Line 4: strike “and 2” and replace with “through 3.”

Current Section 6, Page 99, Lines 4 and 5: strike “3 through 5” and replace with “4 through 6.”

Article 6 – Relating to Small Business

Section 5, Page 157, Line 14: strike “(e)” and replace with “(d).”

Section 5, Page 157, Line 27: strike “(e)” and replace with “(d).”

Section 6, Page 158, Line 22: strike “Section” and replace with “Sections 4 and.”

Article 8 – Relating to Education

New SECTION 3, Page 175, after Line 16: Insert new Section 3 as included in Appendix 2 attached to this memo and renumber all subsequent sections accordingly. This amends Article 8 to increase the cap on Last Dollar Scholarship funding for qualified students attending participating, independent, non-profit, higher education institutions in Rhode Island to \$1,750,000 from \$1,500,000. This section will take effect on July 1, 2023.

Current Section 3, Page 175, Line 17: add “except for Section 3 which shall take effect on July 1, 2023” after “passage.”

H 5200 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2024

Article 4 – Relating to Taxes

SECTION 2. Section 44-1-7 of the General Laws in Chapter 44-1 entitled “State Tax Officials” is hereby amended to read as follows:

44-1-7. Interest on delinquent payments.

(a) Whenever the full amount of any state tax or any portion or deficiency, as finally determined by the tax administrator, has not been paid on the date when it is due and payable, whether the time has been extended or not, there shall be added as part of the tax or portion or deficiency interest at the rate as determined in accordance with subsection (b) of this section, notwithstanding any general or specific statute to the contrary.

(b) Each January 1 the tax administrator shall compute the rate of interest to be in effect for that calendar year by adding two percent (2%) to the prime rate, which was in effect on October 1 of the preceding year, except:

(1) Before January 1, 2023, in no event shall the rate of interest exceed twenty-one percent (21%) per annum nor be less than eighteen percent (18%) per annum;

(2) On and after January 1, 2023, in no event shall the rate of interest exceed twenty-one percent (21%) per annum nor be less than twelve percent (12%) per annum except:

(i) From January 1, 2023, through December 31, 2023, For trust fund taxes as established by §§ 44-19-35 and 44-30-76, in no event shall the rate of interest exceed twenty-one percent (21%) per annum nor be less than eighteen percent (18%) per annum; and

(ii) On and after January 1, 2024, for trust fund taxes as established by §§ 44-19-35 and 44-30-76, in no event shall the rate of interest exceed twenty-one percent (21%) per annum nor be less than twelve percent (12%) per annum.

(c) “Prime rate” as used in subsection (b) of this section means the predominant prime rate quoted by commercial banks to large businesses as determined by the board of governors of the Federal Reserve System.

(d) Notwithstanding any provisions of the general laws to the contrary, the tax administrator shall waive interest and penalty on the taxable portion of each Paycheck Protection Program loan taxed pursuant to §§ 44-11-11(a)(1)(iv), 44-14-11, and 44-30-12(b)(8) and forgiven during tax year 2020 provided that the tax on that portion is paid in full on or before March 31, 2022. The tax administrator shall make available suitable forms with instructions for making tax payments on the taxable portion of such forgiven Paycheck Protection Program loans.

H 5200 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2024

Article 8 – Relating to Education

SECTION 3. Section 16-56-6 of the General Laws in Chapter 16-56 entitled “Postsecondary Student Financial Assistance” is hereby amended to read as follows:

16-56-6. Need-based grants.

(a) Amount of funds allocated. The commissioner of postsecondary education shall allocate annually the appropriation for need-based scholarships and grants. Of the total amount appropriated for need-based scholarship and grants, the lesser of twenty percent (20%) or one million ~~five~~ seven hundred ~~fifty~~ thousand dollars ~~(\$1,500,000)~~ (\$1,750,000) shall be distributed to qualified students attending participating, independent, non-profit, higher education institutions in Rhode Island. The remainder of funds shall be limited to public higher education institutions in Rhode Island including payments made pursuant to § 16-100-3(c). As part of the annual budget submission, the office of postsecondary commissioner shall include a plan of how the need-based scholarship and grant funds will be allocated to each public institution receiving funds pursuant to this chapter and how the funds will be distributed to students attending independent, non-profit institutions.

(b) Eligibility of individuals. Eligibility for need-based grants and scholarships shall be determined by the office of the postsecondary commissioner.

(c) Number and terms of awards. The number of awards to be granted in any one fiscal year shall be contingent upon the funds allocated to this section.

H 5200 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2024

Article 3 – Relating to Government Reform and Reorganization

SECTION 10. Section 45-24-76 of the General Laws in Chapter 45-24 entitled “Zoning Ordinances” is hereby amended to read as follows:

45-24-76. Accessory dwelling units annual reporting.

(a) Each municipality within the state shall furnish to the ~~division of statewide planning~~ Department of Housing information on:

- (1) Any ordinances enacted related to accessory dwelling units, including those that implement this section of law during the previous calendar year;
- (2) All accessory dwelling units permitted during each of the two (2) previous calendar years; and
- (3) All accessory dwelling units issued a certificate of occupancy during each of the two (2) previous calendar years.

(b) Municipalities shall provide the information in subsection (a) annually by February 1. ~~Statewide planning~~ The Department of Housing shall produce an annual report of municipal activity related to accessory dwelling units, with the information identified in subsection (a) on a statewide basis and disaggregated by municipality and shall provide a copy of the report to the speaker of the house, the president of the senate and the secretary of housing by March 1.

SECTION 11. Section 45-53-11 of the General Laws in Chapter 45-53 entitled “Low and Moderate Income Housing” is hereby amended to read as follows:

45-53-11. Annual comprehensive permit report.

(a) ~~The division of statewide planning (the “division”) established pursuant to chapter 11 of title 42~~ The Department of Housing shall maintain records and shall prepare a report (“report”) on an annual basis to be submitted to the speaker of the house, the president of the senate, and the housing resources commission, ~~and the secretary of housing~~. The report shall also be made available on the ~~division’s~~ department’s website for a period of at least three (3) years, and shall also be deemed to be a public record. The report shall be due on or before March 15, of each year, commencing in calendar year 2023.

(b) The report required by this section shall contain the following for the preceding twelve-month (12) calendar period covered by the report:

- (1) The number of letters of eligibility issued for low- and moderate-income housing for applications made pursuant to this chapter and § 42-55-5.3, the federal, state, and municipal subsidy programs under which they were eligible, and the number of proposed subsidized units involved, by city and town, during the preceding calendar year, as provided by the Rhode Island housing corporation.
- (2) The status of each comprehensive permit application for which a letter of eligibility was issued disaggregated by municipality.
- (3) The number of comprehensive permit applications that have had building permits issued, including the number of market rate housing units, the number of low- and moderate-income housing units, and the AMI restrictions associated both pursuant to § 45-53-4, aggregated by the total number of such applications in the state and disaggregated by each municipality in the state.
- (4) The number of comprehensive permit applications that have had certificates of occupancy issued, aggregated by the total number of such applications in the state and disaggregated by each municipality in the state.

(c) Each municipality shall annually provide to the division the information on comprehensive permit activity described in subsection (b) of this section by February 1.

H 5200 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2024

Article 3 – Relating to Government Reform and Reorganization

SECTION 7. Section 37-14.1-6 of the General Laws in Chapter 14.1 titled “Minority Business Enterprise” is hereby amended to read as follows:

37-14.1-6 Minority business enterprise participation.

(a) Minority business enterprises shall be included in all procurements and construction projects under this chapter and shall be awarded a minimum of ~~ten percent (10%)~~ fifteen percent (15%) of the dollar value of the entire procurement or project. Of that fifteen percent (15%), minority business enterprises owned and controlled by a minority owner, as defined in 37-14.1-3, shall be awarded a minimum of seven- and one-half percent (7.5%), and minority business enterprises owned and controlled by a woman shall be awarded a minimum of seven- and one-half percent (7.5%). The director of the department of administration is further authorized to establish by rules and regulation the certification process and formulas for giving minority business enterprises a preference in contract and subcontract awards.

(b) Any minority business enterprise currently certified by the U.S. Small Business Administration as an 8(a) firm governed by 13 C.F.R. part 124 shall be deemed to be certified by the department of administration as a minority business enterprise and shall only be required to submit evidence of federal certification of good standing.

(c) The provisions of chapter 14.1 of title 37 shall not be waived, including, but not limited to, during a declared state of emergency.

(d) The State of Rhode Island will arrange for a disparity study to evaluate the need for the development of programs to enhance the participation in State contracts of business enterprises owned by women and minorities, to be repeated every five years beginning 2025.