

**CIVIC ALLIANCE FOR A COOLER RHODE ISLAND**

**ASSESSMENT OF THE EXECUTIVE CLIMATE CHANGE COORDINATING COUNCIL**

**MOVING BEYOND BUSINESS AS USUAL**

**December 17, 2018**

**Citizen evaluation of government agency performance is vital to meaningful democracy. The body politic needs to look objectively at the work done by public agencies, applaud what has been done well, and point to things that are needed to advance the commonweal and to secure constitutional guarantees, including those pertaining to justice, liberty, and natural system viability. The conditions of climate change call for such civic activism in our state. The following assessment is offered in this sense of public duty.**

## Key Findings.

The basic take-away from this assessment is straight forward: regarding climate change mitigation and adaptation, we in Rhode Island need to move beyond business as usual, and the Executive Climate Change Coordinating Council (EC4) merits being tuned-up and empowered to contribute to this movement.

This assessment finds that:

- A. While assigning the EC4 specific duties, the Resilient RI Act neither includes a grant of powers to the EC4 to perform those duties nor provides for an allocation of resources needed to do the work;
- B. While the EC4 has done an outstanding job in basic respects, several key provisions of the Resilient Rhode Island Act of 2014 have not been utilized to date, and compliance with those provisions will be important going forward;
- C. While the EC4 serves a vital function that needs to be continued, it is not sufficient to achieve needed progress: Enforceable targets for greenhouse gas emissions reductions are crucial and new powers of implementation need to be established in state agencies;
- D. While the EC4 and its advisory boards have illuminated positive things that are happening in Rhode Island, especially within member state agencies, they have not used (1) Executive Order 17-06, Reaffirming Rhode Island's Commitment to the Paris Agreement, (2) the provisions of Chapters 205 and 255 of the Public Laws of 2017 requiring a study of carbon pricing as means to incentivize change, and (3) best available science and technical information in evaluating the state's policies and programs aimed at mitigating and adapting to climate change; and,
- E. While managing natural resources presuming an essentially steady state has been effective in the past (pollution control measures and non-degradation of resources are examples), now we must manage based on the trajectory of change: Resilience-based ecosystem stewardship is needed to enable life in Rhode Island to evolve during the years ahead; achieving environmental justice, building a green economy, and stewarding ecosystem diversity are fundamental issues. The December 2016 *Greenhouse Gas Emissions Reduction Plan* shows clearly that clinging to business as usual will not work going forward.

**While the EC4 serves a vital function that needs to be continued, it needs more in the way of resources and capacity and new powers of implementation to achieve greenhouse gas emissions reductions crucial to the well-being of the Rhode Island community.**

This assessment has been undertaken for the following reasons:

- First, 2019 will be the fifth anniversary of the Resilient Rhode Island Act, and it is appropriate to consider what has been accomplished by that statute. Has it served a useful purpose, and should it be continued? Does it need amendment or revision?
- Second, January 1 will commence a new gubernatorial term, and new terms are an important juncture. At their start, it is established practice to set forth aspirations for the next four years.
- Third, 2020 is the year in which we will have to evaluate whether or not we have met our first greenhouse gas emissions reduction target of being 10% below 1990 levels. Whatever the conclusion about the current target, the recent news regarding the need for emissions

reductions has not been good: both the UN Intergovernmental Panel on Climate Change (IPCC) and the Fourth National Climate Assessment show the need for emission reductions is much more pressing, if we are to avoid a global cataclysm, than heretofore has generally been accepted.

- Fourth, per the *Greenhouse Gas Emissions Reduction Plan of 2016*, the Department of Environmental Management is to prepare a triennial GHG emissions inventory for Rhode Island and report on progress towards meeting Resilient Rhode Island GHG targets. 2019 would be the triennial year, and in the report, DEM is to “evaluate the possibility of meeting higher targets through cost-effective measures”.

### **Why a Civic Assessment.**

This assessment is an independent, external review. It is a public-facing document rather than one addressed to the agencies constituting the Executive Climate Change Coordinating Council (EC4). Since the work of the EC4 involves matters profoundly important to the future of Rhode Island, how well the EC4 is performing is a public question. The Civic Alliance for a Cooler Rhode Island was organized to address climate change issues, preponderantly those pertaining to greenhouse gas emissions mitigation. In 2014, organizers of the Civic Alliance were at the forefront of efforts to secure passage of a Resilient Rhode Island Act, and since then members of the Civic Alliance have regularly attended EC4 meetings. The assessment is based on this experience, on a comprehensive review of EC4 reports and posted documents and minutes of meetings, and on an examination of the powers, duties, expectations established in the statute creating the EC4, RIGL chapter 42-6.2.

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### **Need to Ramp-up Efforts in RI.**

The context of this assessment is the need to ramp up efforts (1) to mitigate greenhouse gas emissions through reduction of emissions by increases in energy efficiency, changes in life style, renewable energy deployment to serve an increasing share of the electrical load in Rhode Island, and carbon sequestration, and (2) to make substantial investments in increasing capacities for resilience. Resilience requires more than maximizing short-term returns on investment under current conditions and needs to be built into systems before catastrophic events occur, it is not something that can be assembled as or after the storm hits.

**Recent 2018 reports, the IPCC special report and the Fourth National Climate Assessment, both state the urgency of increasing the speed of change. Business as usual and reliance on long established governmental powers will not get us into a favorable position to avoid catastrophic levels of climate change.**

### **Background on the EC4.**

The EC4 was the product of Senate legislation, 2014-S 2952, which was embraced by the House, codifying and somewhat augmenting executive order 14-01 of Governor Lincoln Chafee. Executive

Orders do not change existing law; they neither create new duties nor establish new powers: they can, however, give guidance regarding how existing powers are to be executed and coordinated.

The enacted EC4 legislation, while doing things that were necessary and desirable to strengthen outcomes under existing statutes, did not require the establishment of new programs and efforts to address mitigation and adaptation needs.

### **Content of the Resilient RI Act of 2014.**

The Resilient Rhode Island Act of 2014 has the following major features:

1. It creates an Executive Climate Change Coordinating (EC4) with a membership including, but not be limited to, nine (9) heads of state agencies with responsibilities relevant to climate change mitigation and adaptation. The current roster of participating agencies is twelve (12).
2. It creates an Advisory Board of thirteen (13) members, five (5) appointed by the Governor from communities, four (4) appointed by the Speaker of the House, and four (4) appointed by the Senate President. The General Assembly appointees represent specific interests, for instance housing, economic policy and/or workforce development, public health and safety. The chairperson is appointed by the governor, the vice-chairperson and secretary are elected by the board annually.
3. It creates Science and Technical Advisory Board of nine (9) members, four (4) from institutions of higher education, two (2) from research laboratories located in the state, and three (3) from state agencies. The chairperson is appointed by the governor, the vice-chairperson and secretary are elected by the board annually.
4. It establishes the following Emission Reduction Targets, which are not binding: 10 percent below 1990 levels by 2020, 45 percent below 1990 levels by 2035, and 80 percent below 1990 levels by 2050.
5. It requires a plan by not later than December 31, 2017, to meet these targets (the original deadline for the plan was December 31, 2016, that date was pushed out a year to accommodate a study of carbon pricing). The plan is to be updated not less frequently than once every five years, the plan is to “include procedures and metrics . . . for evaluating meeting higher targets through cost effective measures” per RIGL § 42-6.2-2(a)(2)(i)(D).
6. It requests cooperation of state agencies.
7. It authorizes state agencies to use their existing powers to accomplish the purposes of the Act.

### **EC4 Accomplishments 2014 -2018.**

Since the EC4 superseded the Executive Climate Change Council (EC3), it had an established membership, a practice of meeting regularly, and an exhaustive study of things that could be done by state agencies. In other words, the EC4 could hit the ground running. And this it did. The incoming Raimondo administration did not push the work of the EC4 to a backburner but, if anything, turned up the heat on its performance in some ways, by issuing executive orders, setting forth administration goals, and supporting some key pieces of legislation, for example extending the renewable energy standard from 2019 to 2035.

### **What Resilient RI Act lacks**

1. An explicit grant of powers to the EC4 that enables the EC4 to perform the duties assigned to it. Commonly, state laws creating new agencies have a “powers and duties” section. The Resilient Rhode Island Act of 2014 sets forth the duties of the EC4 but does not enumerate its powers or even contain a clause such as “the EC4 shall be deemed to have and may exercise all powers reasonably necessary to effectuate the duties herein set forth”.
2. Allocation of staff capacity and resources to EC4 vital to the full performance of its duties.
3. Additional powers and duties to state agencies that are needed to meet climate change emission reduction targets contained in the Act and to implement adaptation measures.
4. Enforceable standards for greenhouse gas emission reductions.

The Act is state agency centric, it is oriented toward having state agencies use their existing powers to reduce greenhouse gas emissions in Rhode Island and to facilitate adaptation to climate change in communities.

### **EC4 Meetings: Show-Casing State Agency Activities.**

The meetings of the EC4 are robust, informative, and well attended. Their collective impact is to provide a shared understanding within state government of climate change issues and how Rhode Island government is handling them. Shared understanding is fundamental to coordination, especially if coordination is considered a collective activity rather than a hierarchical one.

The EC4’s website, <http://climatechange.ri.gov/state-actions/ec4/>, is comprehensive on RI state government materials addressing climate change and easy to use. It is a good public resource.

### **Presentation of Major Plans.**

The EC4 is a home for state agency-prepared plans addressing climate change issues. Lacking a substantial staff of its own, these plans are generally the product of agency staff and consultants. EC4, at its meetings, gives these plans public presentation and through its website makes them easy to access.

The two key plans germane to the EC4’s broad purpose, are: The *Greenhouse Gas Emissions Reduction Plan*, prepared by Office of Energy Resources, December 2016, and the *Resilient Rhody Actionable Vision*, prepared by the RI Infrastructure Bank. The former looks at climate change mitigation issues facing Rhode Island and challenges presented in meeting the emissions reduction targets set forth in the Resilient Rhode Island Act of 2014. It shows graphically that after 2020, business as usual will be inadequate to reach emission reduction targets. The latter looks at climate adaptation challenges faced by Rhode Island and its communities. Both plans are information rich.

Significantly, the *Greenhouse Gas Emissions Reduction Plan of 2016* establishes an expectation that the Department of Environmental Management will prepare a “triennial emissions inventory for Rhode Island and report on progress towards meeting Resilient Rhode Island GHG targets.” The Plan, on page 26, further states: “In the triennial report assessing progress toward the Resilient Rhode Island GHG targets, DEM will evaluate the possibility of meeting higher targets through cost-effective measures after consulting with the EC4.” A critical issue will be the methodology DEM uses to consider cost-effectiveness.

Updating the emissions reduction plan by December 2020 could be a means to take into account Executive Order 17-06, the 2018 IPCC report and the Fourth National Assessment in setting a course to achieve the future emissions reduction targets.

What state government is itself doing to mitigate greenhouse gas emissions is described in the *State Agency Lead by Example Initiative Annual Report*, prepared by the Office of Energy Resources, 2016.

The economic benefits to Rhode Island of its energy efficiency and renewable energy programs are presented in the *Clean Energy Jobs Report*, prepared by Commerce RI and the Office of Energy Resources, 2016.

### **EC4 Annual Reports.**

EC4 Annual Reports provide a summary of matters considered by the EC4 since the prior Annual Report, an overview of initiatives by the administration, a summary of climate change relevant activities by EC4 member agencies, and as appendices the annual reports of the Advisory Board and the Science and Technical Advisory Board. The Statutory deadline for submission of annual reports is May 1 per RIGL §42-6.2-7. The 2015 Annual Report is dated June 25, the 2016 Annual Report also shows June as the month of its submission, the 2017 Annual Report has August as its date. No Annual Report for 2018 has been posted yet.

To date, the EC4 Annual Reports have not contained a section of findings and recommendations formally adopted by the EC4. Findings and recommendations are required in the Annual Report per RIGL § 42-6.2-7. Findings and recommendations should be attentive to what needs to be up-graded or replaced because it is out-of-date, and what new needs to be added to policy and programs given how conditions are changing, and what has to be done to meet emission reduction targets and resiliency goals.

**Scientific and technical understanding of climate change and its potential impacts has been evolving rapidly, so Rhode Island's relying on dated science and technical information places the state and its people at risk.**

### **Maintaining Scientific Understanding.**

The Science & Technical Advisory Board (STAB) is charged with keeping the EC4 “abreast of important developments in scientific and technical information relating to climate and resiliency.” Its major contribution to date has been Chapter 1 of the *Resilient Rhody Actionable Vision*, issued by the RI Infrastructure Bank in 2018. Its other work has been more topical.

The STAB has a statutory duty to “prepare an annual report, to be included in the annual report of the council, evaluating to what extent the state’s policies and programs aimed at mitigating and adapting to climate change are supported by the best available science and technical information.” (RIGL § 42-6.2-5 (f)(6)). Neither the minutes of STAB meetings nor STAB’s Annual Reports indicate that this evaluation function has been given serious consideration. This duty of the STAB is vital. Scientific and technical understanding of climate change and its potential impacts has been evolving rapidly, so Rhode Island’s relying on dated science and technical information places the state and its people at risk. It is one of the

STAB's roles to raise questions, based on the best available science and technical information, of the efficacy of what is being done by the EC4 and by state agencies in addressing climate change. Evaluating current policies and programs in both mitigation and adaptation in light of "best available science and technical information" is a means of moving beyond business as usual. This is a fundamentally essential role that must be fulfilled.

Although funding support for consultants was not provided with 2017 amendments requiring a study on the effectiveness of carbon pricing, the literature on carbon pricing is substantial, and the STAB could have been asked, as minimum, for a literature review. In November 2018, for example, the Chicago IGM Economic Experts Panel agreed that carbon taxes are a better way to implement climate policy than cap-and-trade programs.

### **Engaging the Community.**

The EC4 has several mechanisms for engaging the community and receiving public input on its work. Community engagement is vitally important. Without it, the EC4 is at risk of becoming captive of the perspectives and interests of its member agencies.

The EC4 does reserve time at the end of its full meetings for public comment. The time of EC4 is during normal business hours, and thus the public speaking to the Council is a narrow one. Mostly the comments are given by people with a professional career interest in climate change issues.

The Advisory Board with its diversity of membership should be a means for the EC4 to connect with communities. However, Advisory Board members are appointed by the Governor, the Speaker of the House, and the President of the Senate, and this makes maintaining a full complement of members challenging. While the Advisory Board's Annual Report for 2017 indicates that the Council was convened twice in 2017, no minutes showing a quorum present have been posted with the Secretary of State since the Board's October 27, 2016, meeting. No notices of meetings of the Advisory Board have been posted to date in 2018.

The EC4 does convene topical listening sessions, which are informal and a means of outreach.

EC4 member agencies do have community-oriented initiatives, which are an effective means of engagement. The Health Equity Zones of the Department of Health are an outstanding instance.

### **Meeting the 2020 Target for Greenhouse Gas Emissions Reduction.**

A fundamental task of the Resilient Rhode Island Act was setting short, medium, and long-term targets for reducing emissions. Is Rhode Island on track to meet its 2020 target of being 10 percent below 1990 greenhouse gas emissions levels? This is a complicated question. If one counts emissions attributable to electricity consumption in Rhode Island, the answer is yes. If one counts emissions from electrical generation in Rhode Island, the answer is no. There is simple logic supporting both the yes and no answers.

**Environmental justice requires consideration of full consumption-based accounting of greenhouse emissions.**

On the one hand consumption-based accounting is vital to taking responsibility for the "carbon footprint" of a place. Unless the emissions associated with producing goods and services are taken into

account, it is easy for a place to shirk responsibility for emissions associated with its life style. It is easy for rich places to have “dirty” heavy industry and natural resource extraction located outside their boundaries and nevertheless to have a life style that is dependent on those industries and that natural resource extraction. Environmental justice requires consideration of full consumption-based accounting of greenhouse emissions.

On the other hand, jurisdictions, cities, towns, states, and nations, can only regulate, as practical matter, activities that occur within their borders. Where emissions take place is where they need to be reduced. This also means that where they take place is typically where they are measured and counted.

Rhode Island has made substantial commitments to energy efficiency and renewable energy. On a consumption basis, Rhode Island has made solid progress. However, as a result of the location of natural gas pipeline and electrical transmission infrastructure, Rhode Island has desirable locations for natural gas-fired electrical generation facilities, and a good deal of the electricity generated by these facilities is for out-of-state consumption. Because we are part of a New England-wide grid, in Rhode Island it is possible for the emissions associated with electricity consumption to go down, while the emissions from electricity generation go up.

If jurisdictions using electricity generated in RI do not account for it in their responsibility for reducing emissions, then the RI-based emissions could go unaccounted for in greenhouse gas emission reduction plans when Rhode Island uses accounting based on electrical consumption within the state. A reasonably standardized regional system of counting emissions could solve this problem.

The State’s Energy Plan, *Energy 2035*, adopted by the State Planning Council, October 8, 2015, used the established practice of counting emissions where they are *generated* and indicated that RI might not meet the 2020 target for emissions reductions. The adoption of *Energy 2035* by the State Planning Council, took place in accordance with the Administrative Procedures Act and thus has the force of law. The EC4’s December 2016 *Greenhouse Gas Emissions Reduction Plan* shows RI meeting the 2020 target but uses consumption-based accounting for emissions from the electricity sector only. The decision for a shift to consumption-based accounting for this purpose was made by the EC4 at its May 11, 2016, meeting. The adoption of the *Greenhouse Gas Emissions Reduction Plan* was done by the EC4, which does not have rule making powers, and thus the adoption does not have the force of law.

2020 is just over a year away, and so there is time to clarify this matter before a final determination about whether or not Rhode Island actually met its emissions reduction target for 2020.

**Requisite powers need to be given to state agencies, resources need to be provided, and targets for emissions reductions need to be updated based on current science and made enforceable.**

## **Conclusions: Keep the EC4 and Move Boldly to Strengthen Statutory Powers to Address Climate Change.**

The EC4 performs vital functions, in some key respects its performance is outstanding: It enables a sustained, networked response to climate change issues by state agencies. It is a common platform for issuing informative plans and reports on climate change mitigation and adaptation issues. Its website is attractive and user-friendly and makes important Rhode Island information publicly accessible.

The two major plans on the EC4 platform, the *Greenhouse Gas Emissions Reduction Plan* (December 2016) and the *Resilient Rhody Actionable Vision* (July 2018) are excellent in their depiction of issues and short implementation programs. Nevertheless, requisite powers need to be given to state agencies, resources need to be provided, and targets for emissions reductions need to be updated based on current science and made enforceable.

While the EC4 does many things well, there are significant areas where the Resilient RI Act of 2014 could be more fully utilized:

- First, findings and recommendation adopted by the EC4 should be included in its Annual Reports.
- Second, the Annual Reports should be made on before May 1 of each year, as required: this timing means that the reports are made while the General Assembly is in session. Many of the topics covered in the Annual Reports are important to legislative decision making.
- Third, the Science and Technical Advisory Board should perform the evaluation function set forth RIGL § 42-6.2-5 (f)(6). It is crucial that the best available science and technical information be taken into keeping statutes current and in implementing policies and program.
- Fourth, the Advisory Board has an important function of bringing community concerns and opportunities to the EC4; the Advisory Boards needs to be reinvigorated, either using its existing structure in a more concerted fashion or by amending its structure to provide flexibility in making it functional.

In a way, the period 2014 to present have been the easy years; the prospect ahead, to quote DEM Director Janet Coit, the EC4's chair, is sobering. To handle the work ahead fully and professionally, the EC4 will need greater capacities. To have Boards, such as the Science and Technical Advisory Board and the Advisory Board, function at a high level, professional staff support to those boards is commonly requisite. The EC4 needs to have clearly stated powers that are commensurate with its duties; included in these powers should at least be some power to undertake rule-making consistent with the Administrative Procedures Act.

There are cross-cutting issues that need to be given priority: these include environmental justice, ecosystem diversity and resilience, and green economy development. In the era which we have entered, these issues are inseparable. Interagency coordination is important but not sufficient. The EC4 should not be ensconced on the third floor of 235 Promenade Street, Providence, where it typically meets. Resilience-based ecosystem stewardship relies on the active involvement of diverse communities. This assessment constitutes a public call for institutional evolution, our common obligation is to be constructively responsive to the trajectory of change. We must move beyond business as usual.

**Civic Alliance for a Cooler Rhode Island.**

The Civic Alliance for a Cooler Rhode Island (CACRI) assesses, informs, and activates efforts to reduce greenhouse gas emissions in or attributable to Rhode Island. The purpose of CACRI is philanthropic and includes promoting social learning about climate change, including especially the need to reduce greenhouse gas emissions, improving the commonweal, and protecting the environment and the functioning of the ecosystem.