

2021 -- H 5181

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

**RELATING TO AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT TO EXCEED
\$2,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF
INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT,
ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS AND SCHOOL
FACILITIES IN THE TOWN**

Introduced By: Representatives Azzinaro, Kennedy, and Filippi

Date Introduced: January 27, 2021

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. The town of Westerly is hereby empowered, in addition to authority
2 previously granted, to issue bonds in an amount not exceeding two million dollars (\$2,000,000)
3 from time to time under its corporate name and seal. The bonds of each issue may be issued in the
4 form of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds or a combination
5 thereof and shall be payable either by maturity of principal in the case of serial bonds or by
6 mandatory serial redemption in the case of term bonds, in installments of principal, the first
7 installment to be not later than five (5) years and the last installment not later than thirty (30) years
8 after the date the bonds are issued. All such bonds of a particular issue may be issued in the form
9 of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds or a combination
10 thereof, and may bear interest at a fixed rate or rates or at a variable or auction rate or rates. The
11 bonds may be sold by a negotiated sale or by competitive bid and issued pursuant to a resolution
12 or an indenture of trust. Annual installments of principal may be provided for by maturity of
13 principal in the case of serial bonds or by mandatory serial redemption in the case of term bonds.
14 The amount of principal appreciation each year on any bonds, after the date of original issuance,
15 shall not be considered to be principal indebtedness for the purposes of any constitutional or
16 statutory debt limit or any other limitation. The appreciation of principal after the date of original
17 issue shall be considered interest. Only the original principal amount shall be counted in

1 determining the principal amount so issued and any interest component shall be disregarded.

2 SECTION 2. This act shall constitute an enabling act of the general assembly that is
3 required pursuant to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under
4 this act for school projects shall not be eligible for state housing aid reimbursement pursuant to §
5 16-7-44 unless the school projects described herein have been approved by the Rhode Island
6 Department of Education.

7 SECTION 3. The bonds shall be signed by the president of the town council, the town
8 manager and the director of finance and shall be issued and sold in such amounts as the town council
9 may authorize. The manner of sale, denominations, maturities, interest rates and other terms,
10 conditions and details of any bonds or notes issued under this act may be fixed by the proceedings
11 of the town council authorizing the issue or by separate resolution of the town council or, to the
12 extent provisions for these matters are not so made, they may be fixed by the officers authorized to
13 sign the bonds or notes. Notwithstanding anything contained in this act to the contrary, the town
14 may enter into financing agreements with the Rhode Island Health and Educational Building
15 Corporation pursuant to chapter 7 of title 16 and chapter 38.1 of title 45 and, with respect to notes
16 or bonds issued in connection with such financing agreements, if any, the town may elect to have
17 the provisions of chapter 38.1 of title 45 apply to the issuance of the bonds or notes issued hereunder
18 to the extent the provisions of chapter 38.1 of title 45 are inconsistent herewith. In addition, the
19 town may enter into financing agreements with the Rhode Island Infrastructure Bank pursuant to
20 the provisions of chapter 12.2 of title 46 and, with respect to notes or bonds issued in connection
21 with such financing agreements, if any, the town may elect to have the provisions of chapter 12.2
22 of title 46 apply to the issuance of the bonds or notes issued hereunder to the extent the provisions
23 of chapter 12.2 of title 46 are inconsistent herewith. Such election may be fixed by the proceedings
24 of the town council authorizing such issuance or by separate resolution of the town council, or, to
25 the extent provisions for these matters are not so made, they may be fixed by the officers authorized
26 to sign the bonds or notes. The proceeds derived from the sale of the bonds shall be delivered to
27 the director of finance, and such proceeds exclusive of premiums and accrued interest shall be
28 expended: (1) For the construction, renovation, improvement, alteration, repair furnishing and
29 equipping of schools and school facilities in the Town and all costs related thereto; (2) For payment
30 of the principal or interest on temporary notes issued under section 4; (3) In payment of capitalized
31 interest on bonds or notes; (4) In repayment of advances under section 5; or (5) In payment of
32 related costs of issuance of any bonds or notes. No purchaser of any bonds or notes under this act
33 shall be in any way responsible for the proper application of the proceeds derived from the sales
34 thereof. The project shall be carried out and all contracts made therefor on behalf of the town by

1 the town manager, subject to approval of the town council. The proceeds of bonds or notes issued
2 under this act, any applicable federal or state assistance and other moneys referred to in section 7
3 and 10, shall be deemed appropriated for the purposes of this act without further action than that
4 required by this act. The bond issue authorized by this act may be consolidated for the purposes of
5 issuance and sale with any other bond issue of the town heretofore or hereafter authorized, provided
6 that, notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized
7 by this act shall be expended for the purposes set forth above.

8 SECTION 4. The town council may by resolution authorize the issue from time to time of
9 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
10 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in
11 anticipation of bonds may not exceed the amount of bonds which may be issued under this act, and
12 the amount of original notes issued in anticipation of federal or state aid may not exceed the amount
13 of available federal or state aid as estimated by the director of finance. Temporary notes issued
14 hereunder shall be signed by the manual or facsimile signatures of the director of finance, the town
15 manager and the president of the town council shall be payable within five (5) years from their
16 respective dates, but the principal of and interest on notes issued for a shorter period may be
17 renewed or paid from time to time by the issue of other notes thereunder, provided the period from
18 the date of an original note to the maturity or any note issued to renew or pay the same debt or the
19 interest thereon shall not exceed five (5) years. Any temporary notes in anticipation of bonds issued
20 under this section may be refunded prior to the maturity of the notes by the issuance of additional
21 temporary notes, provided that no such refunding shall result in any amount of such temporary
22 notes outstanding at any one time in excess of two hundred percent (200%) of the amount of bonds
23 which may be issued under this act, and provided further that if the issuance of any such refunding
24 notes results in any amount of such temporary notes outstanding at any one time in excess of the
25 amount of bonds which may be issued under this act, the proceeds of such refunding notes shall be
26 deposited in a separate fund established with the bank which is paying agent for the notes being
27 refunded. Pending their use to pay the notes being refunded, monies in the fund shall be invested
28 for the benefit of the town by the paying agent at the direction of the director of finance in any
29 investment permitted under section 6. The monies in the fund and any investments held as a part
30 of the fund shall be held in trust and shall be applied by the paying agent solely to the payment or
31 prepayment of the principal of and interest on the notes being refunded. Upon payment of all
32 principal of and interest on the notes, any excess monies in the fund shall be distributed to the town.
33 The town may pay the principal of and interest on notes in full from other than the issuance of
34 refunding notes prior to the issuance of bonds pursuant to section 1 hereof. In such case, the town's

1 authority to issue bonds or notes in anticipation of bonds under this act shall continue provided
2 that: (1) The town council passes a resolution evidencing the town's intent to pay off the notes
3 without extinguishing the authority to issue bonds or notes; and (2) That the period from the date
4 of an original note to the maturity date of any other note shall not exceed five (5) years.

5 SECTION 5. Pending any authorization or issue of bonds hereunder or pending or in lieu
6 of any authorization or issue of notes hereunder, the director of finance, with the approval of the
7 town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the
8 treasury of the town to the purposes specified in section 3, such advances to be repaid without
9 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of applicable
10 federal or state assistance or from other available funds.

11 SECTION 6. Any proceeds of bonds or notes issued hereunder or of any applicable federal
12 or state assistance, pending their expenditure, may be deposited or invested by the director of
13 finance in demand deposits, time deposits or savings deposits in banks which are members of the
14 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States
15 of America or by any agency or instrumentality thereof or as may be provided in any other
16 applicable law of the state of Rhode Island or resolution of the town council or pursuant to an
17 investment policy of the town.

18 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder shall
19 be applied to the payment of the first interest due thereon. Any premiums arising from the sale of
20 bonds or notes hereunder and any earnings or net profit realized from the deposit or investment of
21 funds hereunder shall, in the discretion of the director of finance, be applied to the cost of preparing,
22 issuing, and marketing bonds or notes hereunder to the extent not otherwise provided, to the
23 payment of the cost of the project, to the payment of the principal of or interest on bonds or notes
24 issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and
25 marketing bonds or notes hereunder may also, in the discretion of the director of finance, be met
26 from bond or note proceeds exclusive of accrued interest or from other monies available therefor.
27 Any balance of bond or note proceeds remaining after payment of the cost of the projects and the
28 cost of preparing, issuing and marketing bonds or notes hereunder shall be applied to the payment
29 of the principal of or interest on bonds or notes issued hereunder. To the extent permitted by
30 applicable federal laws, any earnings or net profit realized from the deposit or investment of funds
31 hereunder may, upon receipt, be added to and dealt with as part of the revenues of the town from
32 property taxes. In exercising any discretion under this section, the director of finance shall be
33 governed by any instructions adopted by resolution of the town council.

34 SECTION 8. All bonds and notes issued under this act and the debts evidenced thereby

1 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
2 contracted by it and shall be excepted from the operation of § 45-12-2 of the general laws. No such
3 obligation shall at any time be included in the debt of the town for the purpose of ascertaining its
4 borrowing capacity. The town shall annually appropriate a sum sufficient to pay the principal and
5 interest coming due within the year on bonds and notes issued hereunder to the extent that monies
6 therefor are not otherwise provided. If such sum is not appropriated, it shall nevertheless be added
7 to the annual tax levy. In order to provide such sum in each year and notwithstanding any provision
8 of law to the contrary, all taxable property in the town shall be subject to ad valorem taxation by
9 the town without limitation as to rate or amount.

10 SECTION 9. Any bonds or notes issued under the provisions of this act, if properly
11 executed by officers of the town in office on the date of execution, shall be valid and binding
12 according to their terms notwithstanding that before the delivery thereof and payment therefor any
13 or all of such officers shall for any reason have ceased to hold office.

14 SECTION 10. The town, acting by resolution of its town council is authorized to apply for,
15 contract for and expend any federal or state advances or other grants or assistance which may be
16 available for the purposes of this act, and any such expenditures may be in addition to other monies
17 provided in this act. To the extent of any inconsistency between any law of this state and any
18 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with interest
19 where applicable, whether contracted for prior to or after the effective date of this act, may be
20 repaid as project costs under section 3.

21 SECTION 11. Bonds and notes may be issued under this act without obtaining the approval
22 of any governmental agency or the taking of any proceedings or the happening of any conditions
23 except as specifically required by this act for such issue. In carrying out any project financed in
24 whole or in part under this act, including where applicable the condemnation of any land or interest
25 in land, and in the levy and collection of assessments or other charges permitted by law on account
26 of any such project, all action shall be taken which is necessary to meet constitutional requirements
27 whether or not such action is otherwise required by statute; but the validity of bonds and notes
28 issued hereunder shall in no way depend upon the validity or occurrence of such action.

29 SECTION 12. All or any portion of the authority to issue bonds and notes under this act
30 may be extinguished by resolution of the town council, without further action by the general
31 assembly seven (7) years after the effective date of this act.

32 SECTION 13. The director of finance, the town manager and the president of the town
33 council, on behalf of the town, are hereby authorized to execute such documents or other papers as
34 either of them deem necessary or desirable to carry out the intent of this act and are also authorized

1 to take all actions and execute all documents or agreements necessary to comply with federal tax
2 and securities laws, which documents or agreements may have a term coextensive with the maturity
3 of the bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange
4 Commission ("the Rule") and to execute and deliver a continuing disclosure agreement or
5 certificate in connection with the bonds or notes in the form as shall be deemed advisable by such
6 officers in order to comply with the Rule.

7 SECTION 14. The question of the approval of this act shall be submitted to the electors of
8 the town at the special election to be held on March 2, 2021 or at a general or special election (other
9 than a primary), on a date as shall be designated by the town council. The question shall be
10 submitted in substantially the following form: "Shall an Act, passed at the 2021 session of the
11 General Assembly, entitled, 'AN ACT AUTHORIZING THE TOWN OF WESTERLY TO ISSUE
12 NOT TO EXCEED \$2,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER
13 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION,
14 IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS
15 AND SCHOOL FACILITIES IN THE TOWN' be approved?" and the warning for the election
16 shall contain the question to be submitted. Notwithstanding anything contained in § 17-19-7 to the
17 contrary, the Westerly Board of Canvassers may certify the question to the Secretary of State not
18 later than fifteen (15) days prior to the date set for any special town election. From the time the
19 election is warned and until it is held, it shall be the duty of the town clerk to keep a copy of the act
20 available at the clerk's office for public inspection, but the validity of the election shall not be
21 affected by this requirement.

22 SECTION 15. This section and the foregoing section shall take effect upon the passage of
23 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
24 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

A N A C T

RELATING TO AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT TO EXCEED
\$2,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF
INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT,
ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS AND SCHOOL
FACILITIES IN THE TOWN

1 This act authorizes the Town of Westerly to issue bonds and notes in an amount not
2 exceeding \$2,000,000 to finance the construction, renovation, improvement, alteration, repair,
3 furnishing and equipping of schools and school facilities in the town.

4 This act shall constitute an enabling act of the general assembly that is required pursuant
5 to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under this act for school
6 projects shall not be eligible for state housing aid reimbursement pursuant to § 16-7-44 unless the
7 school projects described herein have been approved by the Rhode Island Department of Education.

8 Sections 14 and 15 would take effect upon passage. The remainder of the act would take
9 effect upon approval of the question provided for in Section 14.

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