

2016 -- S 2990

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

AUTHORIZING THE TOWN OF WESTERLY TO ISSUE BONDS AND NOTES IN AN AMOUNT NOT EXCEEDING \$38,500,000 TO FINANCE THE CONSTRUCTION, RENOVATION, REHABILITATION, REPAIR, IMPROVEMENTS, FURNISHING AND EQUIPPING OF AND/OR ADDITIONS TO SCHOOLS AND SCHOOL FACILITIES IN THE TOWN

Introduced By: Senator Dennis L. Algieri

Date Introduced: May 10, 2016

Referred To: Senate Finance

(by request)

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 thirty-eight million five hundred
3 thousand dollars (\$38,500,000) from time to time under its corporate name and seal. The bonds of
4 each issue may be issued in the form of zero coupon bonds, capital appreciation bonds, serial
5 bonds or term bonds or a combination thereof and shall be payable either by maturity of principal
6 in the case of serial bonds or by mandatory serial redemption in the case of term bonds, in
7 installments of principal, the first installment to be not later than five (5) years and the last
8 installment not later than thirty (30) years after the date the bonds are issued. All such bonds of a
9 particular issue may be issued in the form of zero coupon bonds, capital appreciation bonds, serial
10 bonds or term bonds or a combination thereof, and may bear interest at a fixed rate or rates or at a
11 variable or auction rate or rates. The bonds may be sold by a negotiated sale or by competitive bid
12 and may be issued pursuant to a resolution or an indenture of trust. Annual installments of
13 principal may be provided for by maturity of principal in the case of serial bonds or by mandatory
14 serial redemption in the case of term bonds. The amount of principal appreciation each year on
15 any bonds, after the date of original issuance, shall not be considered to be principal indebtedness
16 for the purposes of any constitutional or statutory debt limit or any other limitation. The
17 appreciation of principal after the date of original issue shall be considered interest. Only the

1 original principal amount shall be counted in determining the principal amount so issued and any
2 interest component or premium shall be disregarded.

3 SECTION 2. The bonds shall be signed by the town director of finance, the town
4 manager and the president of the town council and shall be issued and sold in such amounts as the
5 town council may authorize. The manner of sale, denominations, maturities, interest rates and
6 other terms, conditions and details of any bonds or notes issued under this act may be fixed by the
7 proceedings of the town council authorizing the issue or by separate resolution of the town
8 council or, to the extent provisions for these matters are not so made, they may be fixed by the
9 officers authorized to sign the bonds or notes. The proceeds derived from the sale of the bonds
10 shall be delivered to the director of finance, and such proceeds exclusive of premiums and
11 accrued interest shall be expended: (1) For the construction, renovation, rehabilitation, repair,
12 improvements, furnishing and equipping of and/or additions to schools and school facilities in the
13 town; (2) For payment of the principal or interest on temporary notes issued under section 3; (3)
14 In payment of capitalized interest on bonds or notes; (4) In repayment of advances under section
15 4; or (4) In payment of related costs of issuance of any bonds or notes. No purchaser of any bonds
16 or notes under this act shall be in any way responsible for the proper application of the proceeds
17 derived from the sales thereof. The project shall be carried out and all contracts made therefor on
18 behalf of the town by the town council. The proceeds of bonds or notes issued under this act, any
19 applicable federal or state assistance and other monies referred to in sections 6 and 9, shall be
20 deemed appropriated for the purposes of this act without further action than that required by this
21 act. The bond issue authorized by this act may be consolidated for the purposes of issuance and
22 sale with any other bond issue of the town heretofore or hereafter authorized, provided that,
23 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by
24 this act shall be expended for the purposes set forth above. The director of finance, the town
25 manager and the president of the town council, on behalf of the town, are hereby authorized to
26 execute such instruments, documents or other papers as either of them deem necessary or
27 desirable to carry out the intent of this act and are also authorized to take all actions and execute
28 all documents or agreements necessary to comply with federal tax and securities laws, which
29 documents or agreements may have a term coextensive with the maturity of the bonds authorized
30 hereby, including Rule 15c2-12 of the Securities and Exchange Commission and to execute and
31 deliver a continuing disclosure agreement or certificate in connection with the bonds or notes.

32 SECTION 3. The town council may by resolution authorize the issue from time to time of
33 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
34 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in

1 anticipation of bonds may not exceed the amount of bonds which may be issued under this act
2 and the amount of original notes issued in anticipation of federal or state aid may not exceed the
3 amount of available federal or state aid as estimated by the director of finance. Temporary notes
4 issued hereunder shall be signed by the manual or facsimile signatures of the director of finance,
5 the town manager and the president of the town council shall be payable within five (5) years
6 from their respective dates, but the principal of and interest on notes issued for a shorter period
7 may be renewed or paid from time to time by the issue of other notes thereunder, provided the
8 period from the date of an original note to the maturity or any note issued to renew or pay the
9 same debt or the interest thereon shall not exceed five (5) years. Any temporary notes in
10 anticipation of bonds issued under this section may be refunded prior to the maturity of the notes
11 by the issuance of additional temporary notes, provided that no such refunding shall result in any
12 amount of such temporary notes outstanding at any one time in excess of two hundred percent
13 (200%) of the amount of bonds which may be issued under this act, and provided further that if
14 the issuance of any such refunding notes results in any amount of such temporary notes
15 outstanding at any one time in excess of the amount of bonds which may be issued under this act,
16 the proceeds of such refunding notes shall be deposited in a separate fund established with the
17 bank which is paying agent for the notes being refunded. Pending their use to pay the notes being
18 refunded, monies in the fund shall be invested for the benefit of the town by the paying agent at
19 the direction of the director of finance in any investment permitted under section 5. The monies in
20 the fund and any investments held as a part of the fund shall be held in trust and shall be applied
21 by the paying agent solely to the payment or prepayment of the principal of and interest on the
22 notes being refunded. Upon payment of all principal of and interest on the notes, any excess
23 monies in the fund shall be distributed to the town. The town may pay the principal of and
24 interest on notes in full from other than the issuance of refunding notes prior to the issuance of
25 bonds pursuant to section 1 hereof. In such case, the town's authority to issue bonds or notes in
26 anticipation of bonds under this act shall continue provided that: (1) The town council passes a
27 resolution evidencing the town's intent to pay off the notes without extinguishing the authority to
28 issue bonds or notes; and (2) That the period from the date of an original note to the maturity date
29 of any other note shall not exceed five (5) years.

30 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu
31 of any authorization or issue of notes hereunder, the director of finance, with the approval of the
32 town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the
33 treasury of the town to the purposes specified in section 2, such advances to be repaid without
34 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of

1 applicable federal or state assistance or from other available funds.

2 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable
3 federal or state assistance, pending their expenditure, may be deposited or invested by the director
4 of finance in demand deposits, time deposits or savings deposits in banks which are members of
5 the Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United
6 States of America or by any agency or instrumentality thereof or as may be provided in any other
7 applicable law of the state of Rhode Island or resolution of the town council or pursuant to an
8 investment policy of the town.

9 SECTION 6. Any accrued interest received upon the sale of bonds or notes hereunder
10 shall be applied to the payment of the first interest due thereon. Any premiums arising from the
11 sale of bonds or notes hereunder and any earnings or net profit realized from the deposit or
12 investment of funds hereunder shall, in the discretion of the director of finance, be applied to the
13 cost of preparing, issuing, and marketing bonds or notes hereunder to the extent not otherwise
14 provided, to the payment of the cost of the project, to the payment of the principal of or interest
15 on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing,
16 issuing and marketing bonds or notes hereunder may also, in the discretion of the director of
17 finance, be met from bond or note proceeds exclusive of accrued interest or from other monies
18 available therefor. Any balance of bond or note proceeds remaining after payment of the cost of
19 the projects and the cost of preparing, issuing and marketing bonds or notes hereunder shall be
20 applied to the payment of the principal of or interest on bonds or notes issued hereunder. To the
21 extent permitted by applicable federal laws, any earnings or net profit realized from the deposit or
22 investment of funds hereunder may, upon receipt, be added to and dealt with as part of the
23 revenues of the town from property taxes. In exercising any discretion under this section, the
24 director of finance shall be governed by any instructions adopted by resolution of the town
25 council.

26 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby
27 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
28 contracted by it and shall be excepted from the operation of §45-12-2 of the general laws. No
29 such obligation shall at any time be included in the debt of the town for the purpose of
30 ascertaining its borrowing capacity. The town shall annually appropriate a sum sufficient to pay
31 the principal and interest coming due within the year on bonds and notes issued hereunder to the
32 extent that monies therefor are not otherwise provided. If such sum is not appropriated, it shall
33 nevertheless be added to the annual tax levy. In order to provide such sum in each year and
34 notwithstanding any provision of law to the contrary, all taxable property in the town shall be

1 subject to ad valorem taxation by the town without limitation as to rate or amount.

2 SECTION 8. Any bonds or notes issued under the provisions of this act, if properly
3 executed by officers of the town in office on the date of execution, shall be valid and binding
4 according to their terms notwithstanding that before the delivery thereof and payment therefor
5 any or all of such officers shall for any reason have ceased to hold office.

6 SECTION 9. The town, acting by resolution of its town council is authorized to apply for,
7 contract for and expend any federal or state advances or other grants or assistance which may be
8 available for the purposes of this act, and any such expenditures may be in addition to other
9 monies provided in this act. To the extent of any inconsistency between any law of this state and
10 any applicable federal law or regulation, the latter shall prevail. Federal and state advances, with
11 interest where applicable, whether contracted for prior to or after the effective date of this act,
12 may be repaid as project costs under section 2.

13 SECTION 10. Bonds and notes may be issued under this act without obtaining the
14 approval of any governmental agency or the taking of any proceedings or the happening of any
15 conditions except as specifically required by this act for such issue. In carrying out any project
16 financed in whole or in part under this act, including where applicable the condemnation of any
17 land or interest in land, and in the levy and collection of assessments or other charges permitted
18 by law on account of any such project, all action shall be taken which is necessary to meet
19 constitutional requirements whether or not such action is otherwise required by statute; but the
20 validity of bonds and notes issued hereunder shall in no way depend upon the validity or
21 occurrence of such action.

22 SECTION 11. All or any portion of the authority to issue bonds and notes under this act
23 may be extinguished by resolution of the town council, without further action by the general
24 assembly.

25 SECTION 12. The director of finance and the town manager, on behalf of the town, are
26 hereby authorized to execute such documents or other papers as either of them deem necessary or
27 desirable to carry out the intent of this act and are also authorized to take all actions and execute
28 all documents or agreements necessary to comply with federal tax and securities laws, which
29 documents or agreements may have a term coextensive with the maturity of the bonds authorized
30 hereby, including Rule 15c2-12 of the Securities and Exchange Commission (the Rule) and to
31 execute and deliver a continuing disclosure agreement or certificate in connection with the bonds
32 or notes in the form as shall be deemed advisable by such officers in order to comply with the
33 Rule.

34 SECTION 13. The question of the approval of this act shall be submitted to the electors

1 of the town at the next general or special election (other than a primary), or at an election on a
2 date as shall be designated by the town council. The question shall be submitted in substantially
3 the following form: "Shall an Act, passed at the 2016 session of the General Assembly, entitled,
4 'AN ACT AUTHORIZING THE TOWN OF WESTERLY TO ISSUE BONDS AND NOTES IN
5 AN AMOUNT NOT EXCEEDING \$38,500,000 TO FINANCE THE CONSTRUCTION,
6 RENOVATION, REHABILITATION, REPAIR, IMPROVEMENTS, FURNISHING AND
7 EQUIPPING OF AND/OR ADDITIONS TO SCHOOLS AND SCHOOL FACILITIES IN THE
8 TOWN' be approved?" and the warning for the election shall contain the question to be
9 submitted. From the time the election is warned and until it is held, it shall be the duty of the town
10 clerk to keep a copy of the act available at the clerk's office for public inspection, but the validity
11 of the election shall not be affected by this requirement.

12 SECTION 14. This section and the foregoing section shall take effect upon the passage of
13 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
14 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

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AUTHORIZING THE TOWN OF WESTERLY TO ISSUE BONDS AND NOTES IN AN AMOUNT NOT EXCEEDING \$38,500,000 TO FINANCE THE CONSTRUCTION, RENOVATION, REHABILITATION, REPAIR, IMPROVEMENTS, FURNISHING AND EQUIPPING OF AND/OR ADDITIONS TO 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 \$38,500,000 to finance the construction, renovation, rehabilitation, repair,
3 improvements, furnishing and equipping of and/or additions to schools and school facilities in the
4 Town.

5 Sections 13 and 14 would take effect upon the passage of this act. The remainder of this
6 act would take effect upon the approval of the question for in Section 13.

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