

2019 -- H 6167

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LC002735
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT TO EXCEED \$71,000,000 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 THROUGHOUT THE TOWN, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR STATE AID AND PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY ANY GRANT RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND

Introduced By: Representatives Azzinaro, Kennedy, and Filippi

Date Introduced: May 30, 2019

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 seventy-one million dollars
3 (\$71,000,000) from time to time under its corporate name and seal; provided, however, that bonds
4 shall not be issued unless the conditions of section 2 hereof as to the level of state aid are met.

5 The bonds of each issue may be issued in the form of zero coupon bonds, capital
6 appreciation bonds, serial bonds or term bonds or a combination thereof and shall be payable
7 either by maturity of principal in the case of serial bonds or by mandatory serial redemption in the
8 case of term bonds, in installments of principal, the first installment to be not later than five (5)
9 years and the last installment not later than thirty (30) years after the date the bonds are issued.

10 SECTION 2. The town may be eligible for school housing aid reimbursement on debt
11 service pursuant to chapter 7 of title 16, or for a grant, loan or other "financial assistance" as
12 defined in §45-38.2-1(6), from the School Building Authority Capital Fund under chapter 38.2 of
13 chapter 45. The amount of borrowing authorized pursuant to this act shall be reduced by the
14 amount of any grant received by the town from the School Building Authority Capital Fund.
15 Bonds, notes or other evidences of indebtedness shall not be issued under this act unless the town

1 has received a letter from the Rhode Island Department of Education ("RIDE") confirming that
2 the then-current school housing aid reimbursement rate under chapter 7 of title 16, as amended
3 from time to time, or financial assistance from the School Building Authority Capital Fund, or
4 pursuant to any other law hereafter enacted providing for funds to municipalities for school
5 housing purposes, is not less than thirty-five percent (35%) for those expenditures which are
6 eligible for state aid. This act shall constitute an enabling act of the general assembly that is
7 required pursuant to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under
8 this act for school projects shall not be eligible for state housing aid reimbursement pursuant to §
9 16-7-44 unless the school projects described herein have been approved by the Rhode Island
10 Department of Education.

11 SECTION 3. The bonds shall be signed by the president of the town council, the town
12 manager and the director of finance and shall be issued and sold in such amounts as the town
13 council may authorize. The manner of sale, denominations, maturities, interest rates and other
14 terms, conditions and details of any bonds or notes issued under this act may be fixed by the
15 proceedings of the town council authorizing the issue or by separate resolution of the town
16 council or, to the extent provisions for these matters are not so made, they may be fixed by the
17 officers authorized to sign the bonds or notes. Notwithstanding anything contained in this act to
18 the contrary, the town may enter into financing agreements with the Rhode Island Health and
19 Educational Building Corporation pursuant to chapter 7 of title 16 and chapter 38.1 of title 45
20 and, with respect to bonds or notes issued in connection with such financing agreements, if any,
21 the town may elect to have the provisions of chapter 38.1 of title 45 apply to the issuance of the
22 bonds or notes issued hereunder to the extent the provisions of chapter 38.1 of title 45 are
23 inconsistent herewith. In addition, the town may enter into financing agreements with the Rhode
24 Island Infrastructure Bank pursuant to the provisions of chapter 12.2 of title 46 and, with respect
25 to bonds or notes issued in connection with such financing agreements, if any, the town may elect
26 to have the provisions of chapter 12.2 of title 46 apply to the issuance of the bonds or notes issued
27 hereunder to the extent the provisions of chapter 12.2 of title 46 are inconsistent herewith. Such
28 election may be fixed by the proceedings of the town council authorizing such issuance or by
29 separate resolution of the town council, or, to the extent provisions for these matters are not so
30 made, they may be fixed by the officers authorized to sign the bonds or notes. The proceeds
31 derived from the sale of the bonds or notes shall be delivered to the director of finance, and such
32 proceeds exclusive of premiums and accrued interest shall be expended: (1) For the construction,
33 renovation, improvement, alteration, repair furnishing and equipping of schools and school
34 facilities in the town and all costs related thereto; (2) For payment of the principal or interest on

1 temporary notes issued under section 4; (3) In payment of capitalized interest on bonds or notes;
2 (4) In repayment of advances under section 5; or (5) In payment of related costs of issuance of
3 any bonds or notes. No purchaser of any bonds or notes under this act shall be in any way
4 responsible for the proper application of the proceeds derived from the sales thereof. The project
5 shall be carried out and all contracts made therefor on behalf of the town by the town manager,
6 subject to approval of the town council. The proceeds of bonds or notes issued under this act, any
7 applicable federal or state assistance and other monies referred to in sections 7 and 10, shall be
8 deemed appropriated for the purposes of this act without further action than that required by this
9 act. The bond issue authorized by this act may be consolidated for the purposes of issuance and
10 sale with any other bond issue of the town heretofore or hereafter authorized; provided that,
11 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by
12 this act shall be expended for the purposes set forth above.

13 SECTION 4. The town council may by resolution authorize the issue from time to time of
14 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
15 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in
16 anticipation of bonds may not exceed the amount of bonds which may be issued under this act
17 (without any reduction for any grant to be received from the School Building Authority Capital
18 Fund), and the amount of original notes issued in anticipation of federal or state aid may not
19 exceed the amount of available federal or state aid as estimated by the director of finance.
20 Temporary notes issued hereunder shall be signed by the manual or facsimile signatures of the
21 director of finance, the town manager and the president of the town council and shall be payable
22 within five (5) years from their respective dates, but the principal of and interest on notes issued
23 for a shorter period may be renewed or paid from time to time by the issue of other notes
24 thereunder, provided the period from the date of an original note to the maturity of any note
25 issued to renew or pay the same debt or the interest thereon shall not exceed five (5) years. Any
26 temporary notes in anticipation of bonds issued under this section may be refunded prior to the
27 maturity of the notes by the issuance of additional temporary notes; provided that, no such
28 refunding shall result in any amount of such temporary notes outstanding at any one time in
29 excess of two hundred percent (200%) of the amount of bonds which may be issued under this
30 act; and provided further, that, if the issuance of any such refunding notes results in any amount
31 of such temporary notes outstanding at any one time in excess of the amount of bonds which may
32 be issued under this act, the proceeds of such refunding notes shall be deposited in a separate fund
33 established with the bank which is paying agent for the notes being refunded. Pending their use to
34 pay the notes being refunded, monies in the fund shall be invested for the benefit of the town by

1 the paying agent at the direction of the director of finance in any investment permitted under
2 section 5. The monies in the fund and any investments held as a part of the fund shall be held in
3 trust and shall be applied by the paying agent solely to the payment or prepayment of the
4 principal of and interest on the notes being refunded. Upon payment of all principal of and
5 interest on the notes, any excess monies in the fund shall be distributed to the town. The town
6 may pay the principal of and interest on notes in full from other than the issuance of refunding
7 notes prior to the issuance of bonds pursuant to Section 1 hereof. In such case, the town's
8 authority to issue bonds or notes in anticipation of bonds under this act shall continue; provided
9 that: (1) The town council passes a resolution evidencing the town's intent to pay off the notes
10 without extinguishing the authority to issue bonds or notes; and (2) That the period from the date
11 of an original note to the maturity date of any other note shall not exceed five (5) years.

12 SECTION 5. Pending any authorization or issue of bonds hereunder or pending or in lieu
13 of any authorization or issue of notes hereunder, the director of finance, with the approval of the
14 town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the
15 treasury of the town to the purposes specified in section 2, such advances to be repaid without
16 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of
17 applicable federal or state assistance or from other available funds.

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

25 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder
26 shall be applied to the payment of the first interest due thereon. Any premiums arising from the
27 sale of bonds or notes hereunder and any earnings or net profit realized from the deposit or
28 investment of funds hereunder shall, in the discretion of the director of finance, be applied to the
29 cost of preparing, issuing, and marketing bonds or notes hereunder to the extent not otherwise
30 provided, to the payment of the cost of the project, to the payment of the principal of or interest
31 on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing,
32 issuing and marketing bonds or notes hereunder may also, in the discretion of the director of
33 finance, be met from bond or note proceeds exclusive of accrued interest or from other monies
34 available therefor. Any balance of bond or note proceeds remaining after payment of the cost of

1 the projects and the cost of preparing, issuing and marketing bonds or notes hereunder shall be
2 applied to the payment of the principal of or interest on bonds or notes issued hereunder. To the
3 extent permitted by applicable federal laws, any earnings or net profit realized from the deposit or
4 investment of funds hereunder may, upon receipt, be added to and dealt with as part of the
5 revenues of the town from property taxes. In exercising any discretion under this section, the
6 director of finance shall be governed by any instructions adopted by resolution of the town
7 council.

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

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

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

29 SECTION 11. Bonds and notes may be issued under this act without obtaining the
30 approval of any governmental agency or the taking of any proceedings or the happening of any
31 conditions except as specifically required by this act for such issue. In carrying out any project
32 financed in whole or in part under this act, including where applicable the condemnation of any
33 land or interest in land, and in the levy and collection of assessments or other charges permitted
34 by law on account of any such project, all action shall be taken which is necessary to meet

1 constitutional requirements whether or not such action is otherwise required by statute; but the
2 validity of bonds and notes issued hereunder shall in no way depend upon the validity or
3 occurrence of such action.

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

7 SECTION 13. The director of finance, the town manager and the president of the town
8 council, on behalf of the town, are hereby authorized to execute such documents or other papers
9 as either of them deem necessary or desirable to carry out the intent of this act and are also
10 authorized to take all actions and execute all documents or agreements necessary to comply with
11 federal tax and securities laws, which documents or agreements may have a term coextensive
12 with the maturity of the bonds authorized hereby, including Rule 15c2-12 of the Securities and
13 Exchange Commission (the Rule) and to execute and deliver a continuing disclosure agreement
14 or certificate in connection with the bonds or notes in the form as shall be deemed advisable by
15 such officers in order to comply with the Rule.

16 SECTION 14. The question of the approval of this act shall be submitted to the electors
17 of the town at the next general election on November 5, 2019 or at a special election (other than a
18 primary), on a date as shall be designated by the town council. The question shall be submitted in
19 substantially the following form: "Shall an Act, passed at the 2019 session of the General
20 Assembly, entitled, 'AN ACT AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT
21 TO EXCEED \$71,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER
22 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION,
23 IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS
24 AND SCHOOL FACILITIES THROUGHOUT THE TOWN, SUBJECT TO APPROVAL OF
25 STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF
26 NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR STATE AID AND
27 PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY ANY GRANT
28 RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND' be
29 approved?" and the warning for the election shall contain the question to be submitted. From the
30 time the election is warned and until it is held, it shall be the duty of the town clerk to keep a copy
31 of the act available at his or her office for public inspection, but the validity of the election shall
32 not be affected by this requirement.

33 SECTION 15. This section and the foregoing section shall take effect upon the passage of
34 this act. The remainder of this act shall take effect upon the approval of this act by a majority of

1 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT TO EXCEED \$71,000,000 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 THROUGHOUT THE TOWN, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR STATE AID AND PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY ANY GRANT RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND

1 This act would authorize the Town of Westerly to issue bonds and notes in an amount not
2 exceeding \$71,000,000 to finance the construction, renovation, improvement, alteration, repair,
3 furnishing and equipping of schools and school facilities throughout the town, subject to approval
4 of state housing aid at a reimbursement rate or state share ratio of not less than 35% for
5 expenditures eligible for state aid and provided that the authorization shall be reduced by any
6 grant received from the School Building Authority Capital Fund. The town may be eligible for
7 school housing aid reimbursement on debt service pursuant to chapter 7 of title 16, or for a grant,
8 loan or other "financial assistance" as defined in § 45-38.2-1(6), from the School Building
9 Authority Capital Fund under chapter 38.2 of chapter 45. The amount of borrowing authorized
10 pursuant to this act shall be reduced by the amount of any grant received by the town from the
11 School Building Authority Capital Fund. Bonds, notes or other evidences of indebtedness shall
12 not be issued under this act unless the town has received a letter from the Rhode Island
13 Department of Education ("RIDE") confirming that the then-current school housing aid
14 reimbursement rate under chapter 7 of title 16, as amended from time to time, or financial
15 assistance from the School Building Authority Capital Fund, or pursuant to any other law
16 hereafter enacted providing for funds to municipalities for school housing purposes, is not less
17 than thirty-five percent (35%) of those expenditures which are eligible for state aid.

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

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- 1 Sections 14 and 15 shall take effect upon passage. The remainder of the act takes effect
- 2 upon approval of the question provided for in Section 14.

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