

2021 -- H 6108

LC002373

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

**AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT TO EXCEED \$11,000,000
GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF
INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF ROAD AND SIDEWALK
INFRASTRUCTURE IMPROVEMENTS AND RELATED WATER LINE IMPROVEMENTS
IN THE TOWN**

Introduced By: Representatives Kennedy, Azzinaro, and Filippi

Date Introduced: March 04, 2021

Referred To: House Municipal Government & Housing

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 eleven million dollars (\$11,000,000)
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. The bonds shall be signed by the president of the town council, the town
3 manager and the director of finance and shall be issued and sold in such amounts as the town council
4 may authorize. The manner of sale, denominations, maturities, interest rates and other terms,
5 conditions and details of any bonds or notes issued under this act may be fixed by the proceedings
6 of the town council authorizing the issue or by separate resolution of the town council or, to the
7 extent provisions for these matters are not so made, they may be fixed by the officers authorized to
8 sign the bonds or notes. Notwithstanding anything contained in this act to the contrary, the town
9 may enter into financing agreements with the Rhode Island infrastructure bank pursuant to the
10 provisions of chapter 12.2 of title 46 and chapter 18 of title 24 and, with respect to bonds or notes
11 issued in connection with such financing agreements, if any, the town may elect to have the
12 provisions of chapter 12.2 of title 46 and chapter 18 of title 24 apply to the issuance of the bonds
13 or notes issued hereunder to the extent the provisions of chapter 12.2 of title 46 or chapter 18 of
14 title 24 are inconsistent herewith. Such election may be fixed by the proceedings of the town council
15 authorizing such issuance of bonds or notes by separate resolution of the town council, or, to the
16 extent provisions for these matters are not so made, they may be fixed by the officers authorized to
17 sign the bonds or notes. The proceeds derived from the sale of the bonds shall be delivered to the
18 director of finance, and such proceeds exclusive of premiums and accrued interest shall be
19 expended: (1) For the construction of road and sidewalk infrastructure improvements and related
20 water line improvements in the town and all costs related thereto; (2) For payment of the principal
21 or interest on temporary notes issued under section 3; (3) In payment of capitalized interest on
22 bonds or notes; (4) In repayment of advances under section 4; or (5) In payment of related costs of
23 issuance of any bonds or notes. No purchaser of any bonds or notes under this act shall be in any
24 way responsible for the proper application of the proceeds derived from the sales thereof. The
25 project shall be carried out and all contracts made therefor on behalf of the town by the town
26 manager, subject to approval of the town council. The proceeds of bonds or notes issued under this
27 act, any applicable federal or state assistance and other monies referred to in sections 6 and 9, shall
28 be deemed appropriated for the purposes of this act without further action than that required by this
29 act. The bond issue authorized by this act may be consolidated for the purposes of issuance and
30 sale with any other bond issue of the town heretofore or hereafter authorized; provided that,
31 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by this
32 act shall be expended for the purposes set forth above.

33 SECTION 3. The town council may by resolution authorize the issue from time to time of
34 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the

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

1 or state assistance or from other available funds.

2 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable federal
3 or state assistance, pending their expenditure, may be deposited or invested by the director of
4 finance in demand deposits, time deposits or savings deposits in banks which are members of the
5 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States
6 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 issued
10 hereunder shall be applied to the payment of the first interest due thereon. Any premiums arising
11 from the sale of bonds or notes hereunder and any earnings or net profit realized from the deposit
12 or 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 on
15 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 revenues
23 of the town from property taxes. In exercising any discretion under this section, the director of
24 finance shall be governed by any instructions adopted by resolution of the town council.

25 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby
26 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
27 contracted by it and shall be excepted from the operation of § 45-12-2. No such obligation shall at
28 any time be included in the debt of the town for the purpose of ascertaining its borrowing capacity.
29 The town shall annually appropriate a sum sufficient to pay the principal and interest coming due
30 within the year on bonds and notes issued hereunder to the extent that monies therefor are not
31 otherwise provided. If such sum is not appropriated, it shall nevertheless be added to the annual tax
32 levy. In order to provide such sum in each year and notwithstanding any provision of law to the
33 contrary, all taxable property in the town shall be subject to ad valorem taxation by the town without
34 limitation as to rate or amount.

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

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

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

20 SECTION 11. All or any portion of the authority to issue bonds and notes under this act
21 may be extinguished by resolution of the town council, without further action by the general
22 assembly seven (7) years after the effective date of this act.

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

32 SECTION 13. The question of the approval of this act shall be submitted to the electors of
33 the town at the special election to be held on May 4, 2021, or at a general or special election (other
34 than a primary), on a date as shall be designated by the town council. The question shall be

1 submitted in substantially the following form: "Shall an Act, passed at the 2021 session of the
2 General Assembly, entitled, 'AN ACT AUTHORIZING THE TOWN OF WESTERLY TO ISSUE
3 NOT TO EXCEED \$11,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER
4 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF ROAD AND
5 SIDEWALK INFRASTRUCTURE IMPROVEMENTS AND RELATED WATER LINE
6 IMPROVEMENTS IN THE TOWN ' be approved?" and the warning for the election shall contain
7 the question to be submitted. From the time the election is warned and until it is held, it shall be the
8 duty of the town clerk to keep a copy of the act available at his/her office for public inspection, but
9 the validity of the election shall not be affected by this requirement.

10 SECTION 14. This section and the foregoing section shall take effect upon the passage of
11 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
12 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 \$11,000,000
GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF
INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF ROAD AND SIDEWALK
INFRASTRUCTURE IMPROVEMENTS AND RELATED WATER LINE IMPROVEMENTS
IN THE TOWN

1 This act authorizes the town of Westerly to issue bonds and notes in an amount not
2 exceeding eleven million dollars (\$11,000,000) to finance the construction of road and sidewalk
3 infrastructure improvements and related water line improvements in the town and all costs related
4 thereto.

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

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