

**2019 -- H 6185**

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LC002771  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2019**

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**A N A C T**

AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT TO EXCEED \$71,410,000 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, Filippi, and Kennedy

Date Introduced: June 05, 2019

Referred To: House Finance

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 four hundred  
3 ten thousand dollars (\$71,410,000) from time to time under its corporate name and seal; provided,  
4 however, that bonds shall not be issued unless the conditions of section 2 hereof as to the level of  
5 state aid are met.

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

11           SECTION 2. The town may be eligible for school housing aid reimbursement on debt  
12 service pursuant to chapter 7 of title 16, or for a grant, loan or other "financial assistance" as  
13 defined in §45-38.2-1(6), from the School Building Authority Capital Fund under chapter 38.2 of  
14 title 45. The amount of borrowing authorized pursuant to this act shall be reduced by the amount  
15 of any grant received by the town from the School Building Authority Capital Fund. Bonds, notes

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by law on account of any such project, all action shall be taken which is necessary to meet  
2 constitutional requirements whether or not such action is otherwise required by statute; but the  
3 validity of bonds and notes issued hereunder shall in no way depend upon the validity or  
4 occurrence of such action.

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

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

17 SECTION 14. The question of the approval of this act shall be submitted to the electors  
18 of the town at the next general election on November 5, 2019 or at a special election (other than a  
19 primary), on a date as shall be designated by the town council. The question shall be submitted in  
20 substantially the following form: "Shall an Act, passed at the 2019 session of the General  
21 Assembly, entitled, 'AN ACT AUTHORIZING THE TOWN OF WESTERLY TO ISSUE NOT  
22 TO EXCEED \$71,410,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER  
23 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION,  
24 IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS  
25 AND SCHOOL FACILITIES THROUGHOUT THE TOWN, SUBJECT TO APPROVAL OF  
26 STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF  
27 NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR STATE AID AND  
28 PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY ANY GRANT  
29 RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND' be  
30 approved?" and the warning for the election shall contain the question to be submitted. From the  
31 time the election is warned and until it is held, it shall be the duty of the town clerk to keep a copy  
32 of the act available at his or her office for public inspection, but the validity of the election shall  
33 not be affected by this requirement.

34 SECTION 15. This section and the foregoing section shall take effect upon the passage of

- 1 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
- 2 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 \$71,410,000  
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

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1           This act would authorize the Town of Westerly to issue bonds and notes in an amount not  
2 exceeding \$71,410,000 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 amount of borrowing  
7 authorized pursuant to this act shall be reduced by the amount of any grant received by the town  
8 from the School Building Authority Capital Fund.

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

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

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