

2018 -- S 2943

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LC005766  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

AUTHORIZING THE CITY OF EAST PROVIDENCE TO FINANCE THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF A NEW HIGH SCHOOL AND ALL EXPENSES INCIDENT THERETO, INCLUDING, BUT NOT LIMITED TO, COSTS OF DESIGN, DEMOLITION, ATHLETIC FIELDS, LANDSCAPING AND PARKING BY THE ISSUANCE OF NOT MORE THAN \$189,500,000 BONDS, NOTES AND/OR OTHER EVIDENCES OF INDEBTEDNESS THEREFOR, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 50% 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: Senators Conley, Nesselbush, and Crowley

Date Introduced: May 31, 2018

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. The city of East Providence is hereby empowered, in addition to authority  
2 previously granted, to issue bonds and other evidences of indebtedness (hereinafter "bonds") up  
3 to an amount not exceeding one hundred eighty-nine million five hundred thousand dollars  
4 (\$189,500,000) from time to time under its corporate name and seal or a facsimile of such seal;  
5 provided, however, that bonds shall not be issued unless the conditions of section 2 hereof as to  
6 the level of state aid are met. The bonds of each issue may be issued in the form of serial bonds or  
7 term bonds or a combination thereof and shall be payable either by maturity of principal in the  
8 case of serial bonds or by mandatory sinking fund installments in the case of term bonds, in  
9 annual installments of principal, the first installment to be not later than five (5) years and the last  
10 installment not later than thirty (30) years after the date of the bonds. All such bonds of a  
11 particular issue may be issued in the form of zero coupon bonds, capital appreciation bonds, serial  
12 bonds or term bonds or a combination thereof. The amount of principal appreciation each year on  
13 any bonds, after the date of original issuance, shall not be considered to be principal indebtedness  
14 for the purposes of any constitutional or statutory debt limit or any other limitation. The

1 appreciation of principal after the date of original issue shall be considered interest. Only the  
2 original principal amount shall be counted in determining the principal amount so issued and any  
3 interest component shall be disregarded.

4 SECTION 2. The city may be eligible for school housing aid reimbursement on debt  
5 service pursuant to chapter 7 of title 16, or for a grant, loan or other "financial assistance" as  
6 defined in § 45-38.2-1(6), from the School Building Authority Capital Fund under chapter 38.2 of  
7 chapter 45. The amount of borrowing authorized pursuant to this act shall be reduced by the  
8 amount of any grant received by the city from the School Building Authority Capital Fund.  
9 Bonds, notes or other evidences of indebtedness shall not be issued under this act unless the city  
10 has received a letter from the Rhode Island Department of Education ("RIDE") confirming that  
11 the then-current school housing aid reimbursement rate under chapter 7 of title 16, as amended  
12 from time to time, or financial assistance from the School Building Authority Capital Fund, or  
13 pursuant to any other law hereafter enacted providing for funds to municipalities for school  
14 housing purposes, is not less than fifty percent (50%) of debt service for those expenditures which  
15 are eligible for state aid.

16 SECTION 3. The bonds shall be signed by the manual or facsimile signatures of the city  
17 director of finance and the mayor and shall be issued and sold in such amounts as the city council  
18 may authorize by resolution. The manner of sale, denominations, maturities, interest rates and  
19 other terms, conditions and details of any bonds or notes issued under this act may be fixed by the  
20 proceedings of the city council authorizing the issue or by separate resolution of the city council  
21 or, to the extent provisions for these matters are not so made, they may be fixed by the officers  
22 authorized to sign the bonds. Notwithstanding anything contained in this act to the contrary, the  
23 city may enter into financing agreements with the Rhode Island Health and Educational Building  
24 Corporation pursuant to chapter 7 of title 16 and chapter 38.1 of title 45 and, with respect to notes  
25 or bonds issued in connection with such financing agreements, if any, the city may elect to have  
26 the provisions of chapter 38.1 of title 45 apply to the issuance of the bonds or notes issued  
27 hereunder to the extent the provisions of chapter 38.1 of title 45 are inconsistent herewith. In  
28 addition, the city may enter into financing agreements with the Rhode Island Infrastructure Bank  
29 pursuant to the provisions of chapter 12.2 of title 46 and, with respect to notes or bonds issued in  
30 connection with such financing agreements, if any, the city may elect to have the provisions of  
31 chapter 12.2 of title 46 apply to the issuance of the bonds or notes issued hereunder to the extent  
32 the provisions of chapter 12.2 of title 46 are inconsistent herewith. Such election may be fixed by  
33 the proceedings of the city council authorizing such issuance of by separate resolution of the city  
34 council, or, to the extent provisions for these matters are not so made, they may be fixed by the

1 officers authorized to sign the bonds or notes. The proceeds derived from the sale of the bonds  
2 shall be delivered to the city director of finance, and such proceeds, exclusive of premiums and  
3 accrued interest shall be expended: (1) For the acquisition, construction, furnishing and equipping  
4 of a new high school in the city and all expenses incident thereto, including, but not limited to,  
5 costs of design, demolition, athletic fields, landscaping and parking; (2) In payment of the  
6 principal of or interest on temporary notes issued under section 4; (3) In repayment of advances  
7 under section 5; (4) In payment of related costs of issuance of any bonds or notes; and/or (5) In  
8 payment of capitalized interest during construction of the project (the "project"). No purchaser of  
9 any bonds or notes under this act shall be in any way responsible for the proper application of the  
10 proceeds derived from the sale thereof. The project shall be carried out and all contracts made  
11 therefor on behalf of the city by the city school building committee. The proceeds of bonds or  
12 notes issued under this act, any applicable federal or state assistance and the other monies referred  
13 to in sections 7 and 10 shall be deemed appropriated for the purposes of this act without further  
14 action than that required by this act. The bonds authorized by this act may be consolidated for the  
15 purpose of issuance and sale with any other bonds of the city heretofore or hereafter authorized;  
16 provided that, notwithstanding any such consolidation, the proceeds from the sale of the bonds  
17 authorized by this act shall be expended for the purposes set forth above.

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

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

17 SECTION 5. Pending any authorization or issue of bonds hereunder or pending or in lieu  
18 of any authorization or issue of notes hereunder, the city director of finance, with the approval of  
19 the city council, may, to the extent that bonds or notes may be issued hereunder, apply funds in  
20 the treasury of the city to the purposes specified in section 3, such advances to be repaid without  
21 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of  
22 applicable federal or state assistance or from other available funds.

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

30 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder  
31 shall be applied to the payment of the first interest due thereon. Any premium arising from the  
32 sale of bonds or notes hereunder shall, in the discretion of the city director of finance, be applied  
33 to the cost of preparing, issuing and marketing bonds or notes hereunder to the extent not  
34 otherwise provided, to the payment of the project costs, to the payment of the principal of or

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

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

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

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

33 SECTION 11. Bonds and notes may be issued under this act without obtaining the  
34 approval of any governmental agency or the taking of any proceedings or the happening of any

1 conditions except as specifically required by this act for such issue. In carrying out any project  
2 financed in whole or in part under this act, including where applicable the condemnation of any  
3 land or interest in land, and in the levy and collection of assessments or other charges permitted  
4 by law on account of any such project, all action shall be taken which is necessary to meet  
5 constitutional requirements whether or not such action is otherwise required by statute, but the  
6 validity of bonds and notes issued hereunder shall in no way depend upon the validity or  
7 occurrence of such action.

8 SECTION 12. The city director of finance and the mayor, on behalf of the city, are  
9 hereby authorized to execute such instruments, documents or other papers as either of them deem  
10 necessary or desirable to carry out the intent of this act and are also authorized to take all actions  
11 and execute all instruments, documents or agreements necessary to comply with federal tax and  
12 securities laws, which instruments, documents or agreements may have a term coextensive with  
13 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 13. All or any portion of the authorized but unissued authority to issue bonds  
18 and notes under this act may be extinguished by resolution of the city council after seven (7)  
19 years shall have passed from the approval of this act provided for in section 14, without further  
20 action by the general assembly.

21 SECTION 14. At the general election to be held on November 6, 2018 or at a local  
22 election, other than a primary, to be held on a date designated by the city council, there shall be  
23 submitted to electors of the city a question in substantially the following form: "Shall An Act  
24 Passed at the 2018 Session of the General Assembly Entitled 'AN ACT AUTHORIZING THE  
25 CITY OF EAST PROVIDENCE TO FINANCE THE ACQUISITION, CONSTRUCTION,  
26 FURNISHING AND EQUIPPING OF A NEW HIGH SCHOOL AND ALL EXPENSES  
27 INCIDENT THERETO, INCLUDING, BUT NOT LIMITED TO, COSTS OF DESIGN,  
28 DEMOLITION, ATHLETIC FIELDS, LANDSCAPING AND PARKING BY THE ISSUANCE  
29 OF NOT MORE THAN \$189,500,000 BONDS, NOTES AND/OR OTHER EVIDENCES OF  
30 INDEBTEDNESS THEREFOR, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A  
31 REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 50% FOR  
32 EXPENDITURES ELIGIBLE FOR STATE AID AND PROVIDED THAT THE  
33 AUTHORIZATION SHALL BE REDUCED BY ANY GRANT RECEIVED FROM THE  
34 SCHOOL BUILDING AUTHORITY CAPITAL FUND' be approved?" and the warning for the

1 election shall contain the question to be submitted. From the time the election is warned and until  
2 it is held, it shall be the duty of the city clerk to keep a copy of this act available at the clerk's  
3 office for public inspection, but the validity of the election shall not be affected by this  
4 requirement. To the extent of any inconsistency between this act and the city charter, this act shall  
5 prevail.

6 SECTION 15. 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 RIDE.

10 SECTION 16. Sections 14 and 16 would take effect upon the passage. The remainder of  
11 this act shall take effect upon the approval of this act by a majority of those voting on the  
12 question at the election prescribed by section 14.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE CITY OF EAST PROVIDENCE TO FINANCE THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF A NEW HIGH SCHOOL AND ALL EXPENSES INCIDENT THERETO, INCLUDING, BUT NOT LIMITED TO, COSTS OF DESIGN, DEMOLITION, ATHLETIC FIELDS, LANDSCAPING AND PARKING BY THE ISSUANCE OF NOT MORE THAN \$189,500,000 BONDS, NOTES AND/OR OTHER EVIDENCES OF INDEBTEDNESS THEREFOR, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 50% 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 city of East Providence to issue not more than \$189,500,000  
2 bonds, notes and other evidences of indebtedness to finance the acquisition, construction,  
3 furnishing and equipping of a new high school and all expenses incident thereto, including, but  
4 not limited to, costs of design, demolition, athletic fields, landscaping and parking. The city may  
5 be eligible for school housing aid reimbursement pursuant to chapter 7 of title 16, or from the  
6 School Building Authority Capital Fund under chapter 38.2 of chapter 45. The amount of  
7 borrowing authorized pursuant to this chapter shall be reduced by the amount of any grant  
8 received by the city from the School Building Authority Capital Fund and the issuance of bonds,  
9 notes and other evidences of indebtedness shall be subject to approval of state housing aid at a  
10 reimbursement rate or state share ratio of not less than fifty percent (50%) for expenditures  
11 eligible for state aid at the time the time the indebtedness is issued.

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

17           Sections 14 and 16 of this act would take effect upon passage. The remainder of the act  
18 would take effect upon approval by the electors of the city of the question provided for in section  
19 14.

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