

**2014 -- S 3041**

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LC005770  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2014**

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A N A C T

IN ACCORDANCE WITH RHODE ISLAND GENERAL LAWS SECTION 16-7-44  
AUTHORIZING THE ISSUANCE OF \$5,900,000 BONDS BY THE TOWN OF SMITHFIELD  
TO FINANCE HEALTH, SAFETY AND FIRE CODE RELATED EMERGENCY REPAIRS,  
ALTERATIONS, RENOVATIONS, IMPROVEMENTS AND EQUIPPING OF SCHOOL  
FACILITIES IN THE TOWN AND ALL ATTENDANT EXPENSES AND APPROVING THE  
ISSUANCE OF BONDS AND NOTES PURSUANT TO FINANCING AGREEMENTS WITH  
THE RHODE ISLAND HEALTH AND EDUCATIONAL BUILDING CORPORATION

Introduced By: Senator Stephen R. Archambault

Date Introduced: May 29, 2014

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. The town of Smithfield is hereby empowered, in addition to authority  
2 previously granted, to issue its general obligation bonds and notes to an amount not exceeding  
3 five million nine hundred thousand dollars (\$5,900,000) at one time or from time to time under its  
4 corporate name and seal or a facsimile of such seal to finance health, safety, and fire code related  
5 repair and replacement of school facilities in the town of Smithfield, and related and attendant  
6 expenses as more fully set forth in section 2. The bonds of each issue may be issued in the form  
7 of serial bonds or term bonds or a combination thereof and shall be payable either by maturity of  
8 principal in the case of serial bonds or by mandatory sinking fund redemption in the case of term  
9 bonds, in annual installments of principal, the first installment to be not later than three (3) years  
10 and the last installment not later than thirty (30) years after the date of the bonds.

11           All such bonds of a particular issue may be issued in the form of zero coupon bonds,  
12 capital appreciation bonds, serial bonds or term bonds or combination thereof. Annual  
13 installments of principal may be provided for by maturity of principal in the case of serial bonds  
14 or by mandatory serial redemption in the case of term bonds. The amount of principal  
15 appreciation each year on any bonds, after the date of original issuance, shall not be considered to  
16 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any

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

4 SECTION 2. The bonds shall be signed by the manual or facsimile signatures of the  
5 finance director and countersigned by the town manager and the town council president and shall  
6 be issued and sold in such amounts as the town council may authorize by majority vote of all its  
7 members. The amount of the bond issue, manner of sale, denominations, maturities, interest rate  
8 or rates, award and other terms, conditions and details of any bonds or notes issued under this act  
9 may be fixed by the proceedings of the town council authorizing their issue or by separate  
10 resolution of the town council or, to the extent provisions for these matters are not so made, they  
11 may be fixed by the officers authorized to sign the bonds. The town council may provide that any  
12 bonds issued under this act and any other authorized issue of bonds of the town may be  
13 consolidated and issued at the same time as a single bond issue, provided that the last installment  
14 of the portion of any such consolidated issue that is allocable to the bonds issued under this act  
15 shall not be later than the times specified by the applicable provisions hereof. The bonds may be  
16 made callable with or without premium. The proceeds derived from the sale of the bonds shall be  
17 delivered to the finance director, and such proceeds, exclusive of premiums and accrued interest,  
18 shall be expended for costs of health, safety, and fire code related emergency repairs, alterations,  
19 renovations, improvements and equipping of school facilities in the town of Smithfield,  
20 including but not necessarily limited to roof replacement and/or repair, and all related and  
21 attendant expenses as determined by the town council (hereinafter referred to as the "project") if  
22 approved by the voters in accordance with section 12 hereof, including all other costs incidental  
23 and related to the foregoing project and its financing pursuant to this act including, but not limited  
24 to, the payment of the principal of or interest on temporary notes issued under section three and  
25 the repayment of advances made under section four. No purchaser of any bonds or notes under  
26 this act shall be in any way responsible for the proper application of the proceeds derived from  
27 the sale thereof. The project shall be carried out and all contracts made therefor on behalf of the  
28 town by the town council, or as may be authorized by the town council. The proceeds of bonds or  
29 notes issued under this act, any applicable federal or state assistance and any other monies  
30 referred to in sections 5 or 6 shall be deemed appropriated for the purposes of this act without  
31 further action than that required by this act. The bond issue authorized by this act may be  
32 consolidated for the purposes of issuance and sale with any other bond issue of the town  
33 heretofore or hereafter authorized, provided that, notwithstanding any such consolidation, the  
34 proceeds from the sale of the bonds authorized by this act shall be expended for the purposes set

1 forth above. The finance director and town manager, on behalf of the town, are hereby authorized  
2 to execute such instruments, documents, or other papers as either of them deem necessary or  
3 desirable to carry out the intent of this act and are also authorized to take all actions and execute  
4 all documents or agreements necessary to comply with federal tax and securities laws, which  
5 documents or agreements may have a term coextensive with the maturity of the bonds authorized  
6 hereby, including Rule 15c2-12 of the Securities and Exchange Commission and to execute and  
7 deliver a continuing disclosure agreement or certificate in connection with the bonds or notes.

8           SECTION 3. The town council may by resolution authorize the issue from time to time of  
9 interest bearing or discounted notes in anticipation of the issue of bonds under this act or in  
10 anticipation of the receipt of federal or state aid for the purposes of this act. The amount of  
11 original notes issued in anticipation of bonds may not exceed the amount of bonds which may be  
12 issued under this act and the amount of original notes issued in anticipation of federal or state aid  
13 may not exceed the amount of available federal or state aid as estimated by the finance director.  
14 Temporary notes issued hereunder shall be signed by the finance director and countersigned by  
15 the town manager and the town council president and shall be payable within five (5) years from  
16 their respective dates, but the principal of and interest on notes issued for a shorter period may be  
17 renewed or paid from time to time by the issue of other notes hereunder, provided the period from  
18 the date of an original note to the maturity of any note issued to renew or pay the same debt or the  
19 interest thereon shall not exceed five (5) years. Any temporary notes in anticipation of bonds  
20 issued under this section may be refunded prior to the maturity of the notes by the issuance of  
21 additional temporary notes, provided that no such refunding shall result in any amount of such  
22 temporary notes outstanding at any one time in excess of two hundred percent (200%) of the  
23 amount of bonds which may be issued under this act, and provided further that if issuance of any  
24 such refunding notes results in any amount of such temporary notes outstanding at any one time  
25 in excess of the amount of bonds which may be issued under this act, the proceeds of such  
26 refunding notes shall be deposited in a separate fund established with the bank which is paying  
27 agent for the notes being refunded. Pending their use to pay the notes being refunded, monies in  
28 the fund shall be invested for the benefit of the town by the paying agent at the direction of the  
29 finance director in any investment permitted under section five. The monies in the fund and any  
30 investments held as a part of the fund shall be held in trust and shall be applied by the paying  
31 agent solely to the payment or prepayment of the principal of and interest on the notes being  
32 refunded. Upon payment of all principal of and interest on the notes, any excess monies in the  
33 fund shall be distributed to the town. The period for which bonds may be issued under this act  
34 need not be reduced by the period of any temporary loans hereunder. The proceeds derived from

1 the sale of such temporary notes shall be used only for the purposes for which the proceeds of  
2 bonds issued under this act may be used. The town may pay the principal of and interest on notes  
3 in full from other than the issuance of refunding notes prior to the issuance of bonds pursuant to  
4 section one hereof. In such case, the town's authority to issue bonds or notes in anticipation of  
5 bonds under this act shall continue provided that: (1) the town council passes a resolution  
6 evidencing the town's intent to pay off the notes without extinguishing the authority to issue  
7 bonds or notes; and (2) that the period from the date of an original note to the maturity date of any  
8 other note shall not exceed five (5) years.

9 SECTION 4. Pending any issue of bonds or notes hereunder, the finance director, with  
10 the approval of the town council, may, to the extent that bonds or notes may be issued hereunder,  
11 apply funds in the treasury of the town for the purposes specified in section 2, such advances to  
12 be repaid without interest from the proceeds of bonds or notes subsequently issued or from the  
13 proceeds of applicable federal or state assistance or from other available funds.

14 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable  
15 federal or state assistance, pending their expenditure, may be deposited or invested by the finance  
16 director in demand deposits, time deposits or savings deposits in banks which are members of the  
17 federal deposit insurance corporation, in obligations issued or guaranteed by the United States of  
18 America or the state of Rhode Island, or by an agency, instrumentality or political subdivision of  
19 either of them, or as may be provided in any other applicable law of the state of Rhode Island, or  
20 resolution of the town council.

21 SECTION 6. Any accrued interest received upon the sale of bonds or notes hereunder  
22 shall be applied to the payment of the first interest due thereon. Any premiums arising from the  
23 sale of bonds or notes hereunder shall, in the discretion of the finance director, be applied to the  
24 cost of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise  
25 provided, to the payment of the cost of the project, to the payment of the principal of or interest  
26 on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing,  
27 issuing and marketing bonds or notes hereunder may also, in the discretion of the finance  
28 director, be met from bond or note proceeds exclusive of premiums and accrued interest or from  
29 other monies available therefor. Any balance of bond or note proceeds remaining after payment  
30 of the cost of the project and the cost of preparing, issuing and marketing bonds or notes  
31 hereunder may be applied to the payment of the principal of or interest on bonds or notes issued  
32 hereunder. To the extent permitted by applicable federal laws, any earnings or net profit realized  
33 from the deposit or investment of funds hereunder shall upon receipt be added to and used for the  
34 same purposes as the proceeds of bonds or notes issued hereunder or be added to and dealt with

1 as part of the revenue of the town from property taxes. In exercising any discretion under this  
2 section, the finance director shall be governed by any instructions adopted by resolution of the  
3 town council. The finance director is authorized to take any action deemed by him or her  
4 necessary to assure that interest on the bonds or notes issued hereunder remains excludable from  
5 gross income of the recipients thereof for federal income tax purposes, including, without  
6 limitation, paying to the federal government any rebate of earnings derived from the deposit or  
7 investment of the proceeds of such bonds or notes that may be required therefor.

8 SECTION 7. 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 and any  
11 provision of the town charter. No such obligation shall at any time be included in the debt of the  
12 town for the purpose of ascertaining its borrowing capacity. The town shall annually appropriate  
13 a sum sufficient to pay the principal and interest coming due within the year on bonds and notes  
14 issued hereunder to the extent that monies therefor are not otherwise provided. If such sum is not  
15 appropriated, it shall nevertheless be added to the annual tax levy. In order to provide such sum in  
16 each year and notwithstanding any provision of law to the contrary, all taxable property in the  
17 town shall be subject to ad valorem taxation by the town without limitation as to the rate or  
18 amount.

19 SECTION 8. 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 9. The town, acting by resolution of its town council, is authorized to apply  
24 for, contract for and expend federal or state advances or other grants or assistance which may be  
25 available for the purposes of this act, and any such expenditures may be in addition to other  
26 monies provided in the act. To the extent of any inconsistency between any law of the 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 10. 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 changes permitted

1 by law on account of any such projects, all action shall be taken which is necessary to meet  
2 constitutional requirements whether or not such section 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 11. After completion of the project, all or any portion of the authorized but  
6 unissued authority to issue bonds and notes under this act may be extinguished by ordinance of  
7 the town council, without further action by the general assembly.

8 SECTION 12. The question of the approval of the project set forth in section 2 hereof  
9 shall be submitted to the voters of Smithfield at the November 4, 2014 general election. The  
10 question shall be submitted in substantially the following form:

11 "Shall an act, passed at the 2014 session of the general assembly, authorizing the Town  
12 of Smithfield to issue not exceeding \$5,900,000 General Obligation Bonds or Notes for the  
13 Purposes of Health, Safety and Fire Code Related Repair and Replacement of School Facilities,  
14 and Related Purposes, be Approved?"

15 Should the commissioner of elementary and secondary education determine that some  
16 portion or portions of the project are not eligible for school housing aid, the town council may, by  
17 resolution, limit the scope of the project and the amount of bonding sought, to those portions of  
18 the project which are eligible for school housing aid. In such an event, the Town Council shall  
19 amend the wording of the ballot question to conform to its resolution.

20 The warning for the election shall contain the question to be submitted. From the time the  
21 election is warned and until it is held, it shall be the duty of the town clerk to keep a copy of this  
22 act available at her office for public inspection, but the validity of the vote taken at the election  
23 shall not be affected by this requirement.

24 SECTION 13. This section and section 12 shall take effect upon the passage of this act.  
25 The remainder of this act shall take effect upon the approval of the question listed in section 12  
26 hereof by a majority of those voting on the question as prescribed by the foregoing section.

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EXPLANATION

OF

A N A C T

IN ACCORDANCE WITH RHODE ISLAND GENERAL LAWS SECTION 16-7-44  
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TO FINANCE HEALTH, SAFETY AND FIRE CODE RELATED EMERGENCY REPAIRS,  
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FACILITIES IN THE TOWN AND ALL ATTENDANT EXPENSES AND APPROVING THE  
ISSUANCE OF BONDS AND NOTES PURSUANT TO FINANCING AGREEMENTS WITH  
THE RHODE ISLAND HEALTH AND EDUCATIONAL BUILDING CORPORATION

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1           This act would empower the town of Smithfield to issue general obligation bonds and  
2 notes not to exceed five million nine hundred thousand dollars (\$5,900,000) to finance health,  
3 safety, and fire code repairs and replacements to school facilities within the town.

4           This act would take effect upon approval of the question listed on the ballot by a majority  
5 of voters in the general election.

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