

2022 -- H 7499 SUBSTITUTE A

LC004719/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

**AUTHORIZING THE CITY OF PROVIDENCE TO FINANCE A CONTRIBUTION
TOWARDS THE UNFUNDED PENSION LIABILITY OF THE EMPLOYEE RETIREMENT
SYSTEM OF THE CITY OF PROVIDENCE BY THE ISSUANCE OF BONDS IN A
PRINCIPAL AMOUNT NOT TO EXCEED \$515,000,000**

Introduced By: Representatives Slater, Vella-Wilkinson, Hull, Amore, O'Brien, Diaz,
Williams, Tobon, Morales, and McEntee

Date Introduced: February 16, 2022

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. The city of Providence (the "city") is hereby empowered to issue at one time
2 or from time to time, bonds up to a principal amount not exceeding five hundred fifteen million
3 dollars (\$515,000,000) in order to finance a contribution towards the unfunded pension liability of
4 the Employee Retirement System of the city of Providence (the "retirement system") and the costs
5 of issuing the bonds. Bond proceeds may also be deposited to a reserve fund, if any, established
6 pursuant to section 3 of this act. The bonds of each issue may be issued in the form of serial bonds
7 or 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 serial redemption in the case of term bonds, in annual
9 installments of principal, the first installment to be not later than twelve (12) months and the last
10 installment not later than twenty-five (25) years after the date of their issuance. Annual installments
11 of principal may be provided for by maturity of principal in the case of serial bonds or by mandatory
12 serial redemption in the case of term bonds.

13 SECTION 2. The bonds shall be signed by the manual or facsimile signatures of the city
14 treasurer and mayor and shall be issued and sold in such principal amounts as the city council may
15 authorize by resolution or ordinance. The manner of sale, denominations, maturities, fixed interest
16 rates and other terms, conditions and details of any bonds issued under this act may be fixed by
17 proceedings of the city council authorizing the issue or by separate resolution or ordinance of the

1 city council or, to the extent provisions for these matters are not so made, they may be fixed by the
2 officers authorized to sign the bonds. The bonds shall be sold at a "true interest cost" not in excess
3 of four and nine-tenths percent (4.9%) per annum. The true interest cost shall be calculated as that
4 rate which, as of the date of delivery of the bonds, discounts semiannually all future payments of
5 principal and interest payments with respect to the bonds to the aggregate amount of bond proceeds.
6 For purposes of this calculation, the amount of bond proceeds is adjusted by any accrued interest,
7 original issue discount or original issue premium. The bonds shall be sold with the city retaining
8 the right to redeem the bonds without penalty or redemption premium on a date not later than ten
9 (10) years after issuance. In addition to any other security provided by law, bonds issued hereunder
10 may, in the discretion of the city treasurer and mayor, be secured or supported, in whole or in part,
11 by insurance or by lines or letters of credit or other credit or liquidity facilities provided by any
12 bank, trust company, insurance company or other financial institution, but the city shall not enter
13 into an interest rate swap or other derivative transaction in connection with the bonds. The proceeds
14 derived from the sale of the bonds shall be delivered to the city treasurer, and such proceeds,
15 exclusive of premiums and accrued interest, shall be: (1) Deposited in the retirement system
16 pension trust fund; (2) Deposited to the reserve fund, if any, established pursuant to section 3 of
17 this act; and (3) Expended for payment of costs in connection with the issuance of the bonds. No
18 purchaser of any bonds under this act shall be in any way responsible for the proper application of
19 the proceeds derived from the sale thereof. The proceeds of bonds issued under this act shall be
20 deemed appropriated for the purposes of this act without further action than that required by this
21 act. The bonds authorized by this act may be consolidated for the purposes of issuance and sale
22 with any other bond issue of the city heretofore or hereafter authorized; provided that,
23 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by this
24 act shall be expended for the purposes set forth above.

25 SECTION 3. The city council, by resolution or ordinance, is authorized to establish a
26 reserve fund, from bond proceeds or monies other than bond proceeds, for the purposes of this act
27 upon such terms and conditions as the city council shall determine. Any such reserve shall be held
28 and controlled by the city and shall be separate from any other reserve or fund of the city allowed
29 or required by statute. The city council shall establish a method to calculate any minimum value to
30 be maintained in the reserve, the required amount of any periodic contribution to the reserve and
31 shall prescribe conditions for expenditures from the reserve, its only permitted uses being to make
32 contributions to the retirement system, to pay principal and interest on the bonds, and to redeem
33 bonds.

34 SECTION 4. The city council may, by resolution or ordinance, authorize that a portion of

1 its real property taxes, tangible property taxes and motor vehicle excise taxes be escrowed,
2 segregated or separately deposited for the payment of principal and interest on the bonds, making
3 contributions to the retirement system and making deposits to the reserve fund described in section
4 3 of this act. The city is authorized to enter into escrow agreements, intercept arrangements, and
5 other banking arrangements to effectuate the intent of this section which agreements may have a
6 term of years up to the final maturity of the bonds. If authorized by the city council, the tax assessor
7 may include provisions for allocation of such taxes in tax bills.

8 SECTION 5. Any proceeds of bonds issued hereunder shall be invested by the city board
9 of investment commissioners established by the city pursuant to the city charter and code of
10 ordinances. The board of investment commissioners shall develop an investment policy for
11 investments in the retirement system pension trust fund with the assistance of a nationally
12 recognized pension investment advisor. So long as any bonds issued pursuant to this act are
13 outstanding, the city shall continue to retain a nationally recognized pension investment advisor to
14 advise the board regarding investment of the bond proceeds. Funds may also be invested in
15 investments which are legal for investment by the state investment commission pursuant to chapter
16 10 of title 35 (the "state investment commission") or in one or more investment pools established
17 pursuant to chapter 10.2 of title 35. The city and the state investment commission are each hereby
18 authorized to enter into agreements with each other with respect to the investment of any proceeds
19 of bonds issued hereunder, with the resulting transactional cost savings passed on to the city;
20 provided, however that if any bond proceeds are commingled with other funds for purposes of
21 investment, that appropriate records shall be maintained of the investments or portions thereof held
22 for the account of the city's retirement system. Such agreements may have a term of years up to the
23 final maturity of the bonds.

24 SECTION 6. Any accrued interest received upon the sale of bonds hereunder shall be
25 applied to the payment of the first interest due thereon. Original issue premium, if any, may, in the
26 discretion of the city treasurer, be applied to the cost of preparing, issuing and marketing bonds
27 hereunder to the extent not otherwise provided, to the retirement system pension trust fund to
28 finance unfunded pension liability costs, to the payment of the principal of or interest on bonds
29 issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and
30 marketing bonds hereunder may also, in the discretion of the city treasurer, be met from bond
31 proceeds exclusive of premium and accrued interest or from other monies available therefor. In
32 exercising any discretion under this section, the city treasurer shall be governed by any instructions
33 adopted by resolution or ordinance of the city council. Except as provided in section 9 hereof, bond
34 proceeds shall not be used to reimburse the city for previous contributions to the retirement system

1 pension trust fund or any prior costs associated with the retirement system. So long as any bonds
2 issued by the city under this act outstanding, the city shall not withdraw funds from the retirement
3 system pension trust fund for any purpose other than providing benefits to members and their
4 beneficiaries, defraying reasonable expenses of administering the funds of the retirement system,
5 conforming with accounting adjustments and return of employee contributions in appropriate cases.

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

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

20 SECTION 9. Pending any authorization or issue of bonds hereunder, the city treasurer,
21 with the approval of the city council given by a resolution or ordinance passed and approved in the
22 manner provided in the city charter, may, to the extent that bonds may be issued hereunder, apply
23 funds in the treasury of the city to the purposes specified in section 2, such advances to be repaid
24 without interest from the proceeds of bonds subsequently issued or from the proceeds of applicable
25 federal or state assistance or from other available funds.

26 SECTION 10. If the unfunded pension liability to be funded with the proceeds of an issue
27 of bonds issued under this act relates in part to employees of a component unit, department or board
28 of the city, each such component unit, department or board shall be responsible for reimbursing the
29 city for such proportion of the annual debt service expense paid by the city for bonds issued
30 hereunder as is equal to the proportion of the total unfunded pension liability to be funded with the
31 proceeds of the bonds as relates to that component unit, department or board. Notwithstanding any
32 general or special law to the contrary, the portion of the annual debt service paid by the city for
33 bonds issued under this act applicable to school department personnel who are members of the
34 retirement system shall be included in the computation of school spending for the purposes of

1 maintenance of effort requirements established by § 16-7-23 or any other law.

2 SECTION 11. Until such time as: (1) All bonds issued under this act (including any
3 refunding bonds or other evidences of indebtedness issued to refinance the bonds issued under this
4 act) are paid in full, or provision has been made for their payment; or (2) Such time as the system
5 is one hundred percent (100%) funded, whichever occurs first, the city shall not approve any
6 agreement or amendment to an agreement which has the effect of shifting pension benefit costs
7 from employees to the city, nor shall the city approve any agreement or amendment to an agreement
8 which has the effect of permitting employees who are participants in the retirement system to
9 contribute to the retirement system an amount less than eight percent (8%) of the employee's
10 pensionable compensation for all employees who are not sworn public safety employees of the fire
11 department or the police department (also sometimes known as class A employees), or less than
12 fifteen percent (15%) of the employee's pensionable compensation for sworn public safety
13 employees of the fire department and the police department (also sometimes known as class B
14 employees) in the current or any future fiscal year. For purposes of this section "one hundred
15 percent (100%) funded" is the funded percentage on a "market value of assets" basis from the
16 system's annual actuarial valuation. This section shall not be construed in any way to limit the city
17 retirement board's ability to approve changes to actuarial assumptions.

18 SECTION 12. It shall be a condition precedent to the issuance of any bonds hereunder that
19 the city shall first make a deposit of at least ten million dollars (\$10,000,000) into one or more
20 restricted and segregated accounts to be held in trust by the city director of finance, together with
21 any income accruing thereon, solely for the purpose of funding employee benefit plans (which
22 plans may be those currently set forth in collective bargaining agreements) that provide post-
23 employment benefits other than pensions ("OPEB") such as, but not limited to, medical, dental,
24 prescription, vision care and similar post-employment benefits to plan participants who are eligible
25 for coverage thereunder (not including teachers), and expenses of the plans. Not later than July 1,
26 2023, the city board of investment commissioners, established pursuant to section 815 of the city's
27 home rule charter, shall enter into one or more formal OPEB trust arrangements, which may provide
28 for one or more agreements with banks, trust companies or other financial intermediaries to serve
29 as custodian of trust funds. The board of investment commissioners shall invest and reinvest the
30 amounts temporarily held in the restricted and segregated account or accounts and the amounts held
31 in the OPEB trust funds in any investment permitted for the city's pension funds consistent with
32 the prudent person rule and investment policies of the city. Pending the establishment of the formal
33 OPEB trust arrangements, the director of finance may disburse not more than five percent (5%) of
34 the monies held in the segregated account or accounts to reimburse the city for current or past

1 OPEB payments, to pay healthcare providers or premiums directly, to reimburse or pay eligible
2 plan participants, or to pay for expenses of the plans. To the extent of any conflict of this section
3 with any general or special law of applicability or the city's home rule charter, this act shall be
4 controlling.

5 SECTION 13. Bonds may be issued under this act without obtaining approval of any
6 governmental agency or the taking of any proceedings or the happening of any conditions except
7 as specifically required by this act for such issue, and shall not be subject to § 45-12-22.4. In
8 carrying out the financing under this act, all action shall be taken which is necessary to meet
9 constitutional requirements whether or not such action is otherwise required by statute, but the
10 validity of bonds issued hereunder shall in no way depend upon the validity or occurrence of such
11 action.

12 SECTION 14. Any unissued authority to issue bonds under this act shall be extinguished
13 without further action of the general assembly or the city council on the date which is five (5) years
14 after the effective date of this act.

15 SECTION 15. The city treasurer and mayor, on behalf of the city, are hereby authorized to
16 execute such instruments, documents or other papers as they deem necessary or desirable to carry
17 out the intent of this act and are also authorized to take all actions and execute all documents or
18 agreements necessary to comply with federal tax and securities laws, which documents or
19 agreements may have a term coextensive with the maturity of the bonds authorized hereby,
20 including Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and to execute
21 and deliver a continuing disclosure agreement or certificate in connection with the bonds in the
22 form as shall be deemed advisable by such officers in order to comply with the Rule.

23 SECTION 16. The provisions of this act are severable, and if any of its provisions are held
24 unconstitutional or invalid for any reason by any court of competent jurisdiction, the decision of
25 the court shall not affect or impair any of the remaining provisions.

26 SECTION 17. The question of the issuance of the bonds shall be submitted to the electors
27 of the city at a special citywide election other than a primary, to be held on a date to be determined
28 by resolution of the city council. The question shall be submitted in substantially the following
29 form: "Shall the City of Providence finance a contribution towards the unfunded pension liability
30 of the Employee Retirement System of the City of Providence by the issuance of general obligation
31 bonds in a principal amount not to exceed \$515,000,000?" and the warning for the election shall
32 contain the question to be submitted. From the time the election is warned and until it is held, it
33 shall be the duty of the city clerk to keep a copy of the act available at the city clerk's office for
34 public inspection, but the validity of the election shall not be affected by this requirement. To the

1 extent of any inconsistency between this act and the city charter or any other general law or law of
2 special applicability to the city, this act shall prevail.

3 SECTION 18. This section 18 and section 17 shall take effect upon passage. The remainder
4 of this act shall take effect upon the approval of this act by a majority of those voting on the question
5 at the election prescribed by section 17, or upon passage, whichever occurs last.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE CITY OF PROVIDENCE TO FINANCE A CONTRIBUTION
TOWARDS THE UNFUNDED PENSION LIABILITY OF THE EMPLOYEE RETIREMENT
SYSTEM OF THE CITY OF PROVIDENCE BY THE ISSUANCE OF BONDS IN A
PRINCIPAL AMOUNT NOT TO EXCEED \$515,000,000

1 This act would authorize the city of Providence to finance a contribution towards the
2 unfunded pension liability of the employee retirement system of the city of Providence by the
3 issuance of bonds in the principal amount of \$515,000,000 therefor.

4 Sections 17 and 18 of the act would take effect upon passage. The remainder of the act
5 would take effect upon approval by the electors of the city of the question provided for in section
6 17, or upon passage, whichever occurs last.

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