

2022 -- S 2321

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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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: Senators Goodwin, Quezada, Ciccone, Mack, Bell, Zurier, Acosta, and  
Cano

Date Introduced: February 15, 2022

Referred To: Senate 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 thirty (30) years after the date of their issuance. Annual installments of  
11 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 five percent (5%) per annum. The true interest cost shall be calculated as that rate which, as of  
4 the date of delivery of the bonds, discounts semiannually all future payments of principal and  
5 interest payments with respect to the bonds to the aggregate amount of bond proceeds. For purposes  
6 of this calculation, the amount of bond proceeds is adjusted by any accrued interest, original issue  
7 discount or original issue premium. The bonds shall be sold with the city retaining the right to  
8 redeem the bonds without penalty or redemption premium on a date not later than ten (10) years  
9 after issuance. In addition to any other security provided by law, bonds issued hereunder may, in  
10 the discretion of the city treasurer and mayor, be secured or supported, in whole or in part, by  
11 insurance or by lines or letters of credit or other credit or liquidity facilities provided by any bank,  
12 trust company, insurance company or other financial institution, but the city shall not enter into an  
13 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, including its use to make contributions  
32 to the retirement system and for principal and interest on the bonds, and the conditions under which  
33 all or a portion of the funds in the reserve may be available for unrestricted purposes, in which case  
34 such funds or portions thereof shall be transferred to the city treasury.

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

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

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

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

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

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

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

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

1 bonds issued under this act applicable to school department personnel who are members of the  
2 retirement system shall be included in the computation of school spending for the purposes of  
3 maintenance of effort requirements established by §16-7-23 or any other law.

4 SECTION 11. Until such time as: (1) All bonds issued under this act (including any  
5 refunding bonds or other evidences of indebtedness issued to refinance the bonds issued under this  
6 act) are paid in full, or provision has been made for their payment; or (2) Such time as the system  
7 is one hundred percent (100%) funded, whichever occurs first, the city shall not approve any  
8 agreement or amendment to an agreement increasing employee benefits that has the effect of  
9 causing the “employer normal cost” of the retirement system to exceed sixteen percent (16%) of  
10 projected aggregate compensation for all classes of employees who are participants in the  
11 retirement system in the current or any future fiscal year. For purposes of this section: (1) “One  
12 hundred percent (100%) funded” is the funded percentage on a “market value of assets” basis from  
13 the system’s annual actuarial valuation; and (2) “Normal cost” is determined under the “entry age  
14 normal cost” method, or such other funding method as may be used in the system’s annual actuarial  
15 valuation in accordance with generally accepted actuarial principles and practices. The “employer  
16 normal cost” means the portion of the normal cost to be paid by the city, as employer, in a fiscal  
17 year, and not to be paid from employee contributions. This section shall not be construed in any  
18 way to limit the city retirement board’s ability to approve changes to actuarial assumptions.

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

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

29 SECTION 14. The city treasurer and mayor, on behalf of the city, are hereby authorized to  
30 execute such instruments, documents or other papers as they deem necessary or desirable to carry  
31 out the intent of this act and are also authorized to take all actions and execute all documents or  
32 agreements necessary to comply with federal tax and securities laws, which documents or  
33 agreements may have term coextensive with the maturity of the bonds authorized hereby,  
34 including Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”) and to execute

1 and deliver a continuing disclosure agreement or certificate in connection with the bonds in the  
2 form as shall be deemed advisable by such officers in order to comply with the Rule.

3 SECTION 15. The provisions of this act are severable, and if any of its provisions are held  
4 unconstitutional or invalid for any reason by any court of competent jurisdiction, the decision of  
5 the court shall not affect or impair any of the remaining provisions.

6 SECTION 16. The question of the approval of this act shall be submitted to the electors of  
7 the city at a special city-wide election other than a primary, to be held on a date to be determined  
8 by resolution of the city council. The question shall be submitted in substantially the following  
9 form: "Shall an act, passed at the 2022 session of the general assembly, entitled 'AN ACT  
10 AUTHORIZING THE CITY OF PROVIDENCE TO FINANCE A CONTRIBUTION  
11 TOWARDS THE UNFUNDED PENSION LIABILITY OF THE EMPLOYEE RETIREMENT  
12 SYSTEM OF THE CITY OF PROVIDENCE BY THE ISSUANCE OF BONDS IN A  
13 PRINCIPAL AMOUNT NOT TO EXCEED \$515,000,000' be approved?" and the warning for the  
14 election shall contain the question to be submitted. Notwithstanding anything contained in § 17-  
15 19-7 to the contrary, the Providence Board of Canvassers may certify the question to the Secretary  
16 of State not later than twenty (20) days prior to the date set for the election. From the time the  
17 election is warned and until it is held, it shall be the duty of the city clerk to keep a copy of the act  
18 available at the city clerk's office for public inspection, but the validity of the election shall not be  
19 affected by this requirement. To the extent of any inconsistency between this act and the city charter  
20 or any other general law or law of special applicability to the city, this act shall prevail.

21 SECTION 17. This section 17 and section 16 shall take effect upon passage. The remainder  
22 of this act shall take effect upon the approval of this act by a majority of those voting on the question  
23 at the election prescribed by section 16.

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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

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

4           Sections 16 and 17 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 16.

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