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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2005**

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A N A C T

RELATING TO PUBLIC FINANCE -- PUBLIC CORPORATION DEBT MANAGEMENT

Introduced By: Representatives Costantino, Lewiss, Malik, Crowley, and Carter

Date Introduced: February 16, 2005

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 35-18-2, 35-18-3 and 35-18-4 of the General Laws in Chapter 35-  
2 18 entitled "Public Corporation Debt Management" are hereby amended to read as follows:

3           **35-18-2. Definitions.** -- The words defined in this section shall have the meanings set  
4 forth below whenever they appear in this chapter, unless the context in which they are used  
5 clearly requires a different meaning:

6           (1) "Bond" and "obligation" mean an agreement by any person to repay borrowed  
7 money.

8           (2) "Economic development project" means any project which the Rhode Island  
9 industrial facilities corporation is authorized to undertake, including, without limitation, a project  
10 related to financing the acquisition of any land and any building or other improvement which  
11 shall be suitable for manufacturing, warehousing, or other industrial or commercial purposes,  
12 including research, production, processing, agricultural, and marine commerce; provided,  
13 however, that the project may include, in addition, the construction or improvement of access  
14 roads and utilities, but only access roads and utilities, and only those which are necessary for the  
15 operation of that project.

16           (3) "Essential public facilities" means roads, bridges, airports, prisons, reservoirs, waste  
17 and wastewater treatment facilities, educational facilities, and any other facilities used by any  
18 state agency, department, board, or commission, including the board of governors for higher  
19 education, to provide services to the public pursuant to the requirements of state or federal law,

1 all fixtures for any of those facilities and facilities financed or refinanced by bonds or other  
2 obligations of the water resources board corporate. It does not include any personal property.

3 (4) "Financing lease" means an agreement in the form of a lease between the state and  
4 any person which provides that upon payment by the state as lessee of aggregate rent equal to no  
5 less than all of the principal and interest on bonds or other obligations issued by the lessor to  
6 finance the acquisition, construction, or improvement of all or any part of an essential public  
7 facility, the state shall have the right to possess, use and enjoy that facility pursuant to the lease  
8 for a specified period and the option to purchase that facility for a nominal sum at the end of the  
9 period.

10 (5) "Governor" means the governor of the state.

11 (6) "Guarantee" and "guarantee lease" mean an agreement on the part of the state to  
12 guarantee any liability of a public corporation except a liability of the Rhode Island industrial  
13 recreational building authority.

14 (7) ~~"Moral obligation bonds" mean revenue bonds issued under section 42-64-18 (as that~~  
15 ~~section was in effect on June 1, 1994) or any substantially similar provision in the general laws.~~

16 (8) "Person" means an individual, partnership, corporation, public corporation, trust, or  
17 association.

18 (9) "Public corporation" means any body corporate and politic created or to be created  
19 pursuant to statute, including, without limitation, the Rhode Island industrial recreational building  
20 authority, the Rhode Island economic development corporation and any subsidiaries thereof, the  
21 Rhode Island industrial facilities corporation, the Rhode Island refunding bond authority, the  
22 Rhode Island health and educational building authority, the board of governors for higher  
23 education, the Rhode Island housing and mortgage finance corporation, the Rhode Island resource  
24 recovery corporation, the Rhode Island public transit authority, the Rhode Island student loan  
25 authority, the water resources board corporate, (except as provided below), the Rhode Island  
26 health and educational building corporation, the Rhode Island depositors economic protection  
27 corporation, the Rhode Island convention center authority, the Rhode Island turnpike and bridge  
28 authority, their successors and assigns. Cities, towns, and any corporation created by a city or  
29 town pursuant to statute, and fire and water districts, are not public corporations under this  
30 chapter. The water resources board corporate is not a public corporation under this chapter to the  
31 extent it is financing or refinancing bonds or other obligations on behalf of a city, town, city or  
32 town instrumentalities or agencies, or fire or water districts.

33 (10) "State" means the state of Rhode Island and Providence Plantations, and any  
34 department, office, board, commission, or agency of the state.

1           **35-18-3. Approval by the general assembly.** -- (a) No elected or appointed state official  
2 may enter into any financing lease or into any guarantee with any person without the prior  
3 approval of the general assembly unless:

4           (1) ~~Total payments under the financing lease or guarantee will not exceed the sum of~~  
5 ~~four million dollars (\$4,000,000);~~

6           (2) [Expired pursuant to P.L. 1994, ch. 148, section 2.]

7           (3) The governor certifies that federal funds will be available to make all of the payments  
8 which the state is or could be obligated to make under the financing lease or guarantee; or

9           (4) The general assembly has adjourned for the year with the expectation that it will not  
10 meet again until the following year and the governor certifies that action is necessary, because of  
11 events occurring after the general assembly has adjourned, to protect the physical integrity of an  
12 essential public facility, to ensure the continued delivery of essential public services, or to  
13 maintain the credit worthiness of the state in the financial markets.

14           (b) No bonds may be issued or other obligation incurred by any public corporation to  
15 finance, in whole or in part, the construction, acquisition, or improvement of any essential public  
16 facility without the prior approval of the general assembly, unless:

17           (1) ~~Total payments under the bonds or other obligation will not exceed the sum of four~~  
18 ~~million dollars (\$4,000,000);~~

19           (2) [Expired pursuant to P.L. 1994, ch. 148, section 2.]

20           (3) The governor certifies that federal funds will be available to make all of the payments  
21 required to be made by the public corporation in connection with the bond or obligation. The  
22 certification shall be transmitted to the speaker of the house and the president of the senate with  
23 copies to the chairpersons of the respective finance committees and fiscal advisors; or

24           (4) The general assembly has adjourned for the year with the expectation that it will not  
25 meet again until the following year and the governor certifies that action is necessary, because of  
26 events occurring after the general assembly has adjourned, to protect the physical integrity of an  
27 essential public facility, to ensure the continued delivery of essential public services, or to  
28 maintain the credit worthiness of the state in the financial markets. The certification shall be  
29 transmitted to the speaker of the house and the president of the senate, with copies to the  
30 chairpersons of the respective finance committees and fiscal advisors.

31           (c) In addition to, and not by way of limitation on, the exemptions provided in  
32 subsections (a) and (b), prior approval by the general assembly shall not be required under this  
33 chapter for bonds or other obligations issued by, or financing leases or guarantee agreements  
34 entered into by:

1           (1) ~~Any public corporation in connection with the financing of any economic~~  
2 ~~development project; provided, however, that the outstanding principal balance of moral~~  
3 ~~obligation bonds issued by all public corporations in connection with economic development~~  
4 ~~projects shall not exceed at any one time the sum of two hundred fifty million dollars~~  
5 ~~(\$250,000,000);~~

6           (2) The Rhode Island clean water finance agency;

7           (3) The Rhode Island housing and mortgage finance corporation;

8           (4) The Rhode Island student loan authority;

9           (5) Any public corporation to refund any bond or other obligation issued by the public  
10 corporation to finance the acquisition, construction, or improvement of an essential public facility  
11 provided that the governor certifies to the speaker of the house and the president of the senate,  
12 with copies to the chairpersons of the respective finance committees and fiscal advisors that the  
13 refunding shall provide a net benefit to the issuer; provided, however, obligations of the Rhode  
14 Island resource recovery corporation outstanding on July 31, 1999, may be refunded by the  
15 issuance of obligations on or before August 1, 1999, and the state through appropriate state and  
16 elected officials, including, but not limited to, the attorney general, the director of the department  
17 of administration and the chairman of the state properties committee, and the Rhode Island  
18 resource recovery corporation may enter into, approve, or extend, any financing lease, guarantee,  
19 or guarantee lease similar to the existing lease arrangements between the state and the Rhode  
20 Island resource recovery corporation in effect on August 1, 1997, and any financing lease,  
21 guarantee, or guarantee lease, or extension thereof, shall be exempt from the provisions of this  
22 chapter;

23           (6) The Narragansett Bay water quality management district commission; and

24           (7) The Rhode Island health and educational building corporation, except bonds or other  
25 obligations issued in connection with the acquisition, construction, or improvement of any facility  
26 used by any state agency, department, board, or commission, including the board of governors for  
27 higher education, to provide services to the public pursuant to the requirements of state or federal  
28 law, and all fixtures for any of those facilities.

29           (d) Nothing contained in this section applies to any loan authorized to be borrowed under  
30 Article VI, section 16 or 17 of the Rhode Island Constitution.

31           (e) Nothing in this section is intended to expand in any way the borrowing authority of  
32 any public corporation under its charter.

33           (f) (1) Any certification made by the governor under subsection (a), (b), or (c) of this  
34 section may be relied upon by any person, including without limitation, bond counsel.

1 (2) The certifications shall be transmitted to the speaker of the house and the president of  
2 the senate with copies to the chairpersons of the respective finance committees and fiscal  
3 advisors.

4 (g) Except as provided for in this chapter, the requirements of this chapter supersede any  
5 other special or general provision of law, including any provision which purports to exempt sales  
6 or leases between the state and a public corporation from the operation of any law.

7 **35-18-4. Procedure.** -- (a) A financing lease, guarantee, bond, or other obligation shall  
8 be deemed to have been approved by the general assembly when the general assembly passes a  
9 concurrent resolution of approval regarding the financing lease, guarantee, bond, or other  
10 obligation which the governor or a public corporation, as the case may be, requests that the  
11 financing lease, guarantee, bond, or other obligation be approved by the general assembly. These  
12 requests shall be transmitted to the speaker of the house and the president of the senate with  
13 copies to the chairpersons of the respective finance committees and fiscal advisors. The request  
14 for approval shall include:

15 (1) A full description of the essential public facility to which the financing lease,  
16 guarantee, bond, or other obligation is related;

17 (2) An explanation as to why the facility is needed and how it will be paid off; and

18 (3) The maximum possible obligation of the state or of any public corporation under the  
19 financing lease, guarantee, bond, or other obligation.

20 (b) The governor shall provide the general assembly with a timely explanation of any  
21 certification made by him or her pursuant to this chapter in connection with any financing lease,  
22 guarantee, bond, or other obligation. These explanations shall be transmitted to the speaker of the  
23 house and the president of the senate with copies to the chairpersons of the respective finance  
24 committees and fiscal advisors. The explanation shall also include:

25 (1) A full description of the essential public facility to which the financing lease,  
26 guarantee, bond, or other obligation is related;

27 (2) An explanation as to why the facility is needed and how it will be paid off; and

28 (3) The maximum possible obligation of the state or of any public corporation under the  
29 financing lease, guarantee, bond, or other obligation.

30 (c) The state shall not enter into any financing lease or guarantee relating to, nor shall  
31 any public corporation issue any bond or other obligation in connection with, any essential public  
32 facility unless the facility conforms to the description included in the request for approval or in  
33 the explanation for certification submitted by the governor in connection with the financing lease,  
34 guarantee, bond, or other obligation; nor shall the state's obligation in connection with the

1 financing lease, guarantee, bond, or other obligation exceed the amount set forth in the request for  
2 approval or explanation of certification.

3 (d) Immediately following the first sale of each issue of ~~moral-obligation~~ bonds in  
4 connection with the financing of an economic development project, the governor shall provide the  
5 general assembly with copies of any offering statement for those bonds and his or her analysis of  
6 the benefits and risks to the state of the project. These statements and analyses shall be  
7 transmitted to the speaker of the house and the president of the senate, with copies to the  
8 chairpersons of the respective finance committees and fiscal advisors.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC FINANCE -- PUBLIC CORPORATION DEBT MANAGEMENT

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1           This act would remove certain dollar limitations regarding total payments under  
2 financing leases, guarantees, and bonds pursuant to the public corporation debt management act.  
3 The act would also provide that copies of certain documents would be transmitted to the speaker  
4 of the house and the president of the senate.

5           This act would take effect upon passage.

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