

2011 -- H 5736

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO TOWNS AND CITIES - INDEBTEDNESS OF TOWNS AND CITIES

Introduced By: Representatives Valencia, Walsh, Tanzi, Dickinson, and Tarro

Date Introduced: March 03, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 45-12-1 and 45-12-22.4 of the General Laws in Chapter 45-12  
2 entitled "Indebtedness of Towns and Cities" are hereby amended to read as follows:  
3           **45-12-1. Payment of indebtedness.** – (a) The outstanding notes, bonds, and contracts of  
4 cities and towns shall be paid and fulfilled according to their tenor, and all public works now  
5 authorized to be prosecuted shall be prosecuted, and all indebtedness now authorized to be  
6 incurred on account thereof may be incurred, according to the tenor of the authority therefor. The  
7 power and obligation of each city and town to pay its general obligation bonds and notes, whether  
8 or not issued pursuant to this chapter, shall be unlimited, and each city and town shall levy ad  
9 valorem taxes upon all the taxable property within the city or town for the payment of the general  
10 obligation bonds or notes and interest on these bonds or notes, without limitation of rate or  
11 amount, except as otherwise provided by or pursuant to law. The faith and credit ad valorem  
12 taxes, and general fund revenues of each city, ~~and~~ town and district shall be pledged for the  
13 payment of the principal of, premium and the interest on, all general obligation bonds and notes  
14 of the city or town whether or not the pledge is stated in the bonds or notes, or in the proceedings  
15 authorizing their issue and shall constitute a first lien on such ad valorem taxes and general fund  
16 revenues. Each city, ~~and~~ town and district shall annually appropriate a sum sufficient to pay the  
17 principal, premium and interest coming due within the year on all its general obligation bonds and  
18 notes to the extent that moneys for the general obligation bonds and notes are not otherwise  
19 provided. If that sum is not appropriated, it shall nevertheless be added to the annual tax levy.

1 Annual appropriations for payment of financing leases and obligations securing bonds, notes or  
2 certificates ("other financing obligations"), shall also have a first lien on ad valorem taxes and  
3 general fund revenues commencing on the date of each annual appropriation. Amounts  
4 appropriated or added to the tax levy to pay principal of, premium and interest on, general  
5 obligation bonds or notes and payments of other financing obligations shall be applied to the  
6 payment of such obligations. Any municipal or district employee or official who intentionally  
7 violates the provisions of this section shall be personally liable to the city, town or district for any  
8 amounts not expended in accordance with such appropriations. The superior court shall have  
9 jurisdiction to adjudicate claims brought by any city, town or district hereunder and to order such  
10 relief as the court may find appropriate to prevent further violations of this section. Any  
11 municipal or district employee or official who violates the provisions of this section shall be  
12 subject to removal.

13 (b) Notwithstanding any provision of any other law, including the uniform commercial  
14 code, title 6A of the Rhode Island general laws:

15 (1) The pledge of ad valorem taxes and general fund revenues to the payment of the  
16 principal, premium and interest on general obligation bonds and notes and payment of other  
17 financing obligations, whether or not issued pursuant to this chapter, is valid and binding, and  
18 deemed continuously perfected from the time the bonds or notes or other financing obligations  
19 are issued;

20 (2) No filing need be made under the uniform commercial code or otherwise to perfect  
21 the first lien on ad valorem taxes or general fund revenues;

22 (3) The pledge of ad valorem taxes and general fund revenues is subject to the lien of the  
23 pledge without delivery or segregation, and the first lien on ad valorem taxes and general fund  
24 revenues is valid and binding against all parties having claims of contract or tort or otherwise  
25 against the city or town, whether or not the parties have notice thereof.

26 (4) The pledge shall be a statutory lien effective by operation of law and shall apply to all  
27 general obligation bonds and notes and other financing obligations of cities, towns and districts  
28 heretofore or hereafter issued and shall not require a security agreement to be effective. Such  
29 pledge shall not constitute a security agreement under Rhode Island law.

30 (c) The pledge of ad valorem taxes and general fund revenues to the payment of  
31 principal, premium and interest on general obligation bonds and notes, under this section  
32 constitutes a sufficient appropriation for the purposes of any provision for appropriation, and the  
33 ad valorem taxes and general fund revenues may be applied as required by the pledge without  
34 further appropriation; provided, however, that this subsection (c) shall not apply to other

1 financing obligations which are subject to annual appropriation.

2 (d) As used in this section, the following words shall have the following meanings:

3 (1) "Ad valorem taxes" shall mean all ad valorem taxes levied by cities, towns and  
4 districts on property, including motor vehicle excise taxes, except for "project revenues" as  
5 defined in subdivision 45-33.2-3(5) of the general laws.

6 (2) "Pledge" shall mean a first lien on, and a grant of a security interest in, ad valorem  
7 taxes and general fund revenues.

8 (3) "General fund revenues" shall mean all taxes, fees, assessments, charges, receipts and  
9 other monies (including unrestricted fund balance) derived from any source, to the extent that  
10 such monies are deposited or required to be deposited to the general fund of the city, town, or  
11 district, and all accounts and rights to receive the ad valorem taxes and general fund revenues and  
12 the proceeds thereof.

13 (e) If any provision of this section or the application thereof shall for any reason be  
14 judged invalid, that judgment shall not affect, impair or invalidate the remainder of the law, but  
15 shall be confined in its effect to the provisions or application directly involved in the controversy  
16 giving rise to the judgment.

17 **45-12-22.4. Deficit financing -- Approval required Deficit, pension and other post-**  
18 **employment benefit financing – Approval required. – (a) Except as provided in chapter 45-9**  
19 **of the general laws, No no municipality shall sell a long-term bond in order to fund a deficit or to**  
20 **fund pension obligations or other post-employment benefits without prior approval by the state**  
21 **auditor general and director of the state department of revenue.**

22 (b) If any provision of this section or the application thereof shall for any reason be  
23 judged invalid, that judgment shall not affect, impair or invalidate the remainder of the law, but  
24 shall be confined in its effect to the provisions or application directly involved in the controversy  
25 giving rise to the judgment.

26 SECTION 2. This act shall take effect upon passage and shall apply to general obligation  
27 bonds and notes and other financing obligations (as herein defined) issued by cities, towns and  
28 districts prior to the date of enactment.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would enhance capital market access for cities, towns and districts by providing  
2   that general obligation bonds, notes and other financing obligations of cities, towns and districts  
3   have a lien on ad valorem taxes (as defined in the act) and general fund revenues. It would also  
4   require that the state auditor general and the director of the state department of revenue approve  
5   the issuance of any bonds to fund pension obligations or other post-employment benefits.

6           This act would take effect upon passage and shall apply to general obligation bonds and  
7   other financing obligations (as herein defined) issued by cities, towns and districts prior to the  
8   date of enactment.

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