

2007 -- H 5217 AS AMENDED

=====
LC00691
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

AUTHORIZING THE TOWN OF PORTSMOUTH TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN AN AMOUNT NOT TO EXCEED \$3,000,000 TO FINANCE THE ACQUISITION AND INSTALLATION OF A WIND TURBINE AT PORTSMOUTH HIGH SCHOOL AND/OR A WIND TURBINE AT PORTSMOUTH MIDDLE SCHOOL

Introduced By: Representatives Gallison, Rice, Loughlin, and Amaral

Date Introduced: January 25, 2007

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

- 1-1 SECTION 1. The Town of Portsmouth is hereby empowered, in addition to authority
1-2 previously granted, to issue general obligation bonds and notes to an amount not exceeding three

1-3 million dollars (\$3,000,000), from time to time, under its corporate name and seal. The bonds of
1-4 each issue may be issued in the form of serial bonds or term bonds or a combination thereof and
1-5 shall be payable either by maturity of principal in the case of serial bonds or by mandatory serial
1-6 redemption in the case of term bonds, in annual installments of principal, the first installment to
1-7 be not later than five (5) years and the last installment not later than thirty (30) years after the date
1-8 of the bonds. All such bonds of a particular issue may be issued in the form of zero coupon
1-9 bonds, capital appreciation bonds, serial bonds or term bonds or a combination thereof. Annual
1-10 installments of principal may be provided for by maturity of principal in the case of serial bonds
1-11 or by mandatory serial redemption in the case of term bonds. The amount of principal
1-12 appreciation each year on any bonds, after the date of original issuance, shall not be considered to
1-13 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any
1-14 other limitation. The appreciation of principal after the date of original issue shall be considered
1-15 interest. Only the original principal amount shall be counted in determining the principal amount
1-16 so issued and any interest component shall be disregarded.

1-17 SECTION 2. The bonds shall be signed by the Finance Director and the President of the
2-1 Town Council and shall be issued and sold in such amounts as the Town Council may authorize.
2-2 The manner of sale, denominations, maturities, interest rates and other terms, conditions and
2-3 details of any bonds or notes issued under this act may be fixed by the proceedings of the Town
2-4 Council authorizing the issue or by separate resolution of the Town Council or, to the extent
2-5 provisions for these matters are not so made, they may be fixed by the officers authorized to sign
2-6 the bonds or notes. The proceeds derived from the sale of the bonds shall be delivered to the
2-7 Finance Director, and such proceeds, exclusive of premiums and accrued interest, shall be
2-8 expended as follows: (a) to finance the acquisition and installation of a wind turbine at
2-9 Portsmouth High School and/or a wind turbine at Portsmouth Middle School, (b) in payment of
2-10 the principal of and/or interest on temporary notes issued under section three, (c) in repayment of
2-11 advances made pursuant to section four, (d) in payment of costs of issuance associated with the

2-12 issuance of bonds or notes hereunder, and/or (e) to finance capitalized interest on the project. No
2-13 purchaser of any bonds or notes under this act shall be in any way responsible for the proper
2-14 application of the proceeds derived from the sale thereof. The project shall be carried out and all
2-15 contracts made therefor on behalf of the Town by the Town Council. The proceeds of bonds or
2-16 notes issued under this act, any applicable federal or state assistance and the other moneys
2-17 referred to in section six and nine, shall be deemed appropriated for the purpose of this act
2-18 without further action than that required by this act. The bonds authorized by this act may be
2-19 consolidated for the purpose of issuance and sale with any other bonds of the Town heretofore or
2-20 hereafter authorized, provided that, notwithstanding any such consolidation, the proceeds from
2-21 the sale of the bonds authorized by this act shall be expended for the purposes set forth above.
2-22 The Finance Director and the President of the Town Council, on behalf of the Town, are hereby
2-23 authorized to execute such instruments, documents or other papers as either of them deem
2-24 necessary or desirable to carry out the intent of this act and are also authorized to take all actions
2-25 and execute all documents or agreements necessary to comply with federal tax and securities
2-26 laws, which documents or agreements may have a term coextensive with the maturity of the
2-27 bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange Commission
2-28 and to execute and deliver a continuing disclosure agreement or certificate in connection with the
2-29 bonds or notes.

2-30 SECTION 3. The Town Council may by resolution authorized the issue from time to time
2-31 of interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of
2-32 the receipt of federal or state aid for the purposes of this act. The amount of original notes issued
2-33 in anticipation of bonds may not exceed the amount of bonds which may be issued under this act
2-34 and the amount of original notes issued in anticipation of federal or state aid may not exceed the
3-1 amount of available federal or state aid as estimated by the Finance Director. Temporary notes
3-2 issued hereunder shall be signed by the Finance Director and the President of the Town Council
3-3 and shall be payable within five (5) years from their respective dates, but the principal of and

3-4 interest on notes issued for a shorter period may be renewed or paid from time to time by the
3-5 issue of other notes hereunder, provided the period from the date of an original note to the
3-6 maturity of any note issued to renew or pay the same debt or the interest thereon shall not exceed
3-7 five (5) years. Any temporary notes in anticipation of bonds issued under this section may be
3-8 refunded prior to the maturity of the notes by the issuance of additional temporary notes, provided
3-9 that no such refunding shall result in any amount of such temporary notes outstanding at any one
3-10 time in excess of two hundred percent (200%) of the amount of bonds which may be issued under
3-11 this act, and provided further that if the issuance of any such refunding notes results in any
3-12 amount of such temporary notes outstanding at any one time in excess of the amount of bonds
3-13 which may be issued under this act, the proceeds of such refunding notes shall be deposited in a
3-14 separate fund established with the bank which is paying agent for the notes being refunded.
3-15 Pending their use to pay the notes being refunded, moneys in the fund shall be invested for the
3-16 benefit of the Town by the paying agent at the direction of the Finance Director in any investment
3-17 permitted under section five. The moneys in the fund and any investments held as a part of the
3-18 fund shall be held in trust and shall be applied by the paying agent solely to the payment or
3-19 prepayment of the principal of and interest on the notes being refunded. Upon payment of all
3-20 principal of and interest on the notes, any excess moneys in the fund shall be distributed to the
3-21 Town. The Town may pay the principal of and interest on notes in full from other than the
3-22 issuance of refunding notes prior to the issuance of bonds pursuant to Section 1 hereof. In such
3-23 case, the Town's authority to issue bonds or notes in anticipation of bonds under this act shall
3-24 continue provided that 1) the Town Council passes a resolution evidencing the Town's intent to
3-25 pay off the notes without extinguishing the authority to issue bonds or notes and 2) that the period
3-26 from the date of an original note to the maturity date of any other note shall not exceed five (5)
3-27 years.

3-28 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu
3-29 of any authorization or issue of notes hereunder, the Finance Director, with the approval of the

3-30 Town Council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the
3-31 treasury of the Town to the purposes specified in section two, such advances to be repaid without
3-32 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of
3-33 applicable federal or state assistance or from other available funds.

3-34 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable
4-1 federal or state assistance, pending their expenditure, may be deposited or invested by the Finance
4-2 Director in demand deposits, time deposits or savings deposits in banks which are members of the
4-3 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States
4-4 of America or by any agency or instrumentality thereof or as may be provided in any other
4-5 applicable law of the state of Rhode Island or resolution of the Town Council or pursuant to an
4-6 investment policy of the Town.

4-7 SECTION 6. Any accrued interest received upon the sale of bonds or notes hereunder
4-8 shall be applied to the payment of the first interest due thereon. Any premiums arising from the
4-9 sale of bonds or notes hereunder shall, in the discretion of the Finance Director, be applied to the
4-10 cost of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise
4-11 provided, to the payment of the cost of the project, to the payment of the principal of or interest
4-12 on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing,
4-13 issuing and marketing bonds or notes issued hereunder may also, in the discretion of the Finance
4-14 Director, be met from bond or note proceeds exclusive of accrued interest or from other moneys
4-15 available therefore. Any balance of bond or note proceeds remaining after payment of the cost of
4-16 the project and the cost of preparing, issuing and marketing bonds or notes hereunder shall be
4-17 applied to the payment of the principal of or interest on bonds or notes issued hereunder. To the
4-18 extent permitted by applicable federal laws, any earnings or net profit realized from the deposit or
4-19 investment of funds hereunder may, upon receipt, be added to and dealt with as part of the
4-20 revenues of the Town from property taxes. In exercising any discretion under this section, the
4-21 Finance Director shall be governed by any instructions adopted by resolution of the Town

4-22 Council.

4-23 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby
4-24 shall be obligatory on the Town in the same manner and to the same extent as other debts
4-25 lawfully contracted by it and shall be excepted from the operation of section 45-12-2 of the
4-26 general laws. No such obligation shall at any time be included in the debt of the Town for the
4-27 purpose of ascertaining its borrowing capacity. The Town shall annually appropriate a sum
4-28 sufficient to pay the principal and interest coming due within the year on bonds and notes issued
4-29 hereunder to the extent that moneys therefor are not otherwise provided. If such sum is not
4-30 appropriated, it shall nevertheless be added to the annual tax levy. In order to provide such sum in
4-31 each year and notwithstanding any provision of law to the contrary, all taxable property in the
4-32 Town shall be subject to ad valorem taxation by the Town without limitation as to rate or amount.

4-33 SECTION 8. Any bonds or notes issued under the provisions of this act, if properly
4-34 executed by officers of the Town in office on the date of execution, shall be valid and binding
5-1 according to their terms notwithstanding that before the delivery thereof and payment therefor
5-2 any or all of such officers shall for any reason have ceased to hold office.

5-3 SECTION 9. The Town, acting by resolution of its Town Council, is authorized to apply
5-4 for, contract for and expend any federal or state advances or other grants or assistance which may
5-5 be available for the purposes of this act, and any such expenditures may be in addition to other
5-6 moneys provided in this act. To the extent of any inconsistency between any law of this state and
5-7 any applicable federal law or regulation, the latter shall prevail. Federal and state advances, with
5-8 interest where applicable, whether contracted for prior to or after the effective date of this act,
5-9 may be repaid as project costs under section two.

5-10 SECTION 10. Bonds and notes may be issued under this act without obtaining the
5-11 approval of any governmental agency or the taking of any proceedings or the happening of any
5-12 conditions except as specifically required by this act for such issue. In carryout out any project
5-13 financed in whole or in part under this act, including where applicable the condemnation of any

5-14 land or interest in land, and in the levy and collection of assessments or other charges permitted
5-15 by law on account of any such project, all action shall be taken which is necessary to meet
5-16 constitutional requirements whether or not such action is otherwise required by statute; but the
5-17 validity of bonds and notes issued hereunder shall in no way depend upon the validity or
5-18 occurrence of such action.

5-19 SECTION 11. All or any portion of the authorized but unissued authority to issue bonds
5-20 and notes under this act may be extinguished by ordinance of the Town Council, without further
5-21 action by the general assembly, seven (7) years after the effective date of this act.

5-22 SECTION 12. The question of the approval of this act shall be submitted to the electors
5-23 of the Town at a special or general election to be held on a date as shall be set by the Town
5-24 Council. The question shall be submitted in substantially the following form: "Shall an act,
5-25 passed at the 2007 session of the general assembly, entitled 'AN ACT AUTHORIZING THE
5-26 TOWN OF PORTSMOUTH TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES
5-27 IN AN AMOUNT NOT TO EXCEED \$3,000,000 TO FINANCE THE ACQUISITION AND
5-28 INSTALLATION OF A WIND TURBINE AT PORTSMOUTH HIGH SCHOOL AND/OR A
5-29 WIND TURBINE AT PORTSMOUTH MIDDLE SCHOOL' be approved?" The warning for the
5-30 election shall contain the question to be submitted. Notwithstanding anything contained in
5-31 R.I.G.L. Section 17-19-7 to the contrary, the Portsmouth Board of Canvassers may certify the
5-32 question to the Secretary of State not later than thirty (30) days prior to the date set for any
5-33 special town election. From the time the election is warned and until it is held, it shall be the duty
5-34 of the Town Clerk to keep a copy of the act available at his or her office for public inspection, but
6-1 the validity of the election shall not be affected by this requirement. To the extent of any
6-2 inconsistency between this act and the Town Charter, this act shall prevail.

6-3 SECTION 13. Notwithstanding any provision of the general or public laws, or rule or

6-4 regulation to the contrary, the project set forth in this act shall not qualify for school housing
aid

6-5 as set forth in chapter 16-7 of the general laws.

6-6 SECTION 14. Sections 12, 13 and 14 shall take effect upon the passage of this act. The
6-7 remainder of this act shall take effect upon the approval of this act by a majority of those voting
6-8 on the question at the election prescribed by the foregoing section.

=====
LC00691
=====