

2023 -- S 1091

LC003109

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

AUTHORIZING THE TOWN OF CUMBERLAND TO ISSUE NOT TO EXCEED \$52,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF A NEW ELEMENTARY SCHOOL AND OTHER RELATED SCHOOL FACILITIES AND THE DEMOLITION OF AN EXISTING ELEMENTARY SCHOOL ON LAND PRESENTLY OCCUPIED BY THE B.F. NORTON SCHOOL IN THE TOWN PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY ANY GRANT RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND

Introduced By: Senators Pearson, and Picard

Date Introduced: June 02, 2023

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. The town of Cumberland is hereby empowered, in addition to authority
2 previously granted, to issue bonds in an amount not exceeding fifty-two million dollars
3 (\$52,000,000) from time to time under its corporate name and seal. The bonds of each issue may
4 be issued in the form of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds
5 or a combination thereof and shall be payable either by maturity of principal in the case of serial
6 bonds or by mandatory serial redemption in the case of term bonds, in installments of principal, the
7 first installment to be not later than five (5) years and the last installment not later than thirty (30)
8 years after the date the bonds are issued.

9 SECTION 2. The town may be eligible for school housing aid reimbursement on debt
10 service pursuant to chapter 7 of title 16, or for a grant, loan or other "financial assistance" as defined
11 in § 45-38.2-1(6), from the school building authority capital fund under chapter 38.2 of chapter 45.
12 The amount of borrowing authorized pursuant to this act shall be reduced by the amount of any
13 grant received by the town from the school building authority capital fund. This act shall constitute
14 an enabling act of the general assembly that is required pursuant to § 16-7-44. Any bonds, notes or
15 other evidences of indebtedness issued under this act for school projects shall not be eligible for

1 state housing aid reimbursement pursuant to § 16-7-44 unless the school projects described herein
2 have been approved by the Rhode Island department of education.

3 SECTION 3. The bonds shall be signed by the mayor and the director of finance and shall
4 be issued and sold in such amounts as the town council may authorize. The manner of sale,
5 denominations, maturities, interest rates and other terms, conditions and details of any bonds or
6 notes issued under this act may be fixed by the proceedings of the town council authorizing the
7 issue or by separate resolution of the town council or, to the extent provisions for these matters are
8 not so made, they may be fixed by the officers authorized to sign the bonds or notes.
9 Notwithstanding anything contained in this act to the contrary, the town may enter into financing
10 agreements with the Rhode Island health and educational building corporation pursuant to chapter
11 7 of title 16 and chapter 38.1 of title 45 and, with respect to bonds or notes issued in connection
12 with such financing agreements, if any, the town may elect to have the provisions of chapter 38.1
13 of title 45 apply to the issuance of the bonds or notes issued hereunder to the extent the provisions
14 of chapter 38.1 of title 45 are inconsistent herewith. In addition, the town may enter into financing
15 agreements with the Rhode Island infrastructure bank pursuant to the provisions of chapter 12.2 of
16 title 46 and, with respect to bonds or notes issued in connection with such financing agreements, if
17 any, the town may elect to have the provisions of chapter 12.2 of title 46 apply to the issuance of
18 the bonds or notes issued hereunder to the extent the provisions of chapter 12.2 of title 46 are
19 inconsistent herewith. Such election may be fixed by the proceedings of the town council
20 authorizing such issuance of by separate resolution of the town council, or, to the extent provisions
21 for these matters are not so made, they may be fixed by the officers authorized to sign the bonds or
22 notes. The proceeds derived from the sale of the bonds shall be delivered to the director of finance,
23 and such proceeds exclusive of premiums and accrued interest shall be expended: (1) For the
24 construction, renovation, improvement, alteration, repair, furnishing and equipping of a new
25 elementary school and other related school facilities and the demolition of an existing elementary
26 school on land presently occupied by the B. F. Norton School in the Town and all costs related
27 thereto; (2) For payment of the principal or interest on temporary notes issued under section 4; (3)
28 In payment of capitalized interest on bonds or notes; (4) In repayment of advances under section 5;
29 or (5) In payment of related costs of issuance of any bonds or notes. No purchaser of any bonds or
30 notes under this act shall be in any way responsible for the proper application of the proceeds
31 derived from the sales thereof. The project shall be carried out and all contracts made therefor on
32 behalf of the town by the town administrator, subject to approval of the town council. The proceeds
33 of bonds or notes issued under this act, any applicable federal or state assistance and other monies
34 referred to in sections 7 and 10, shall be deemed appropriated for the purposes of this act without

1 further action than that required by this act. The bond issue authorized by this act may be
2 consolidated for the purposes of issuance and sale with any other bond issue of the town heretofore
3 or hereafter authorized; provided that, notwithstanding any such consolidation, the proceeds from
4 the sale of the bonds authorized by this act shall be expended for the purposes set forth above.

5 SECTION 4. The town council may by resolution authorize the issue from time to time of
6 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
7 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in
8 anticipation of bonds may not exceed the amount of bonds which may be issued under this act,
9 (without any reduction for any grant to be received from the school building authority capital fund).
10 The amount of original notes issued in anticipation of federal or state aid may not exceed the
11 amount of available federal or state aid as estimated by the director of finance. Temporary notes
12 issued hereunder shall be signed by the manual or facsimile signatures of the director of finance
13 and the mayor shall be payable within five (5) years from their respective dates, but the principal
14 of and interest on notes issued for a shorter period may be renewed or paid from time to time by
15 the issue of other notes thereunder, provided the period from the date of an original note to the
16 maturity or any note issued to renew or pay the same debt or the interest thereon shall not exceed
17 five (5) years. Any temporary notes in anticipation of bonds issued under this section may be
18 refunded prior to the maturity of the notes by the issuance of additional temporary notes; provided
19 that, no such refunding shall result in any amount of such temporary notes outstanding at any one
20 time in excess of two hundred percent (200%) of the amount of bonds which may be issued under
21 this act; and provided further, that if the issuance of any such refunding notes results in any amount
22 of such temporary notes outstanding at any one time in excess of the amount of bonds which may
23 be issued under this act, the proceeds of such refunding notes shall be deposited in a separate fund
24 established with the bank which is paying agent for the notes being refunded. Pending their use to
25 pay the notes being refunded, monies in the fund shall be invested for the benefit of the town by
26 the paying agent at the direction of the director of finance in any investment permitted under section
27 5. The monies in the fund and any investments held as a part of the fund shall be held in trust and
28 shall be applied by the paying agent solely to the payment or prepayment of the principal of and
29 interest on the notes being refunded. Upon payment of all principal of and interest on the notes, any
30 excess monies in the fund shall be distributed to the town. The town may pay the principal of and
31 interest on notes in full from other than the issuance of refunding notes prior to the issuance of
32 bonds pursuant to section 1 hereof. In such case, the town's authority to issue bonds or notes in
33 anticipation of bonds under this act shall continue provided that: (1) The town council passes a
34 resolution evidencing the town's intent to pay off the notes without extinguishing the authority to

1 issue bonds or notes; and (2) That the period from the date of an original note to the maturity date
2 of any other note shall not exceed five (5) years.

3 SECTION 5. Pending any authorization or issue of bonds hereunder or pending or in lieu
4 of any authorization or issue of notes hereunder, the director of finance, with the approval of the
5 town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the
6 treasury of the town to the purposes specified in section 2, such advances to be repaid without
7 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of applicable
8 federal or state assistance or from other available funds.

9 SECTION 6. Any proceeds of bonds or notes issued hereunder or of any applicable federal
10 or state assistance, pending their expenditure, may be deposited or invested by the director of
11 finance in demand deposits, time deposits, or savings deposits in banks which are members of the
12 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States
13 of America or by any agency or instrumentality thereof or as may be provided in any other
14 applicable law of the State of Rhode Island or resolution of the town council or pursuant to an
15 investment policy of the town.

16 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder shall
17 be applied to the payment of the first interest due thereon. Any premiums arising from the sale of
18 bonds or notes hereunder and any earnings or net profit realized from the deposit or investment of
19 funds hereunder shall, in the discretion of the director of finance, be applied to the cost of preparing,
20 issuing, and marketing bonds or notes hereunder to the extent not otherwise provided, to the
21 payment of the cost of the project, to the payment of the principal of or interest on bonds or notes
22 issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and
23 marketing bonds or notes hereunder may also, in the discretion of the director of finance, be met
24 from bond or note proceeds exclusive of accrued interest or from other monies available therefor.
25 Any balance of bond or note proceeds remaining after payment of the cost of the projects and the
26 cost of preparing, issuing and marketing bonds or notes hereunder shall be applied to the payment
27 of the principal of or interest on bonds or notes issued hereunder. To the extent permitted by
28 applicable federal laws, any earnings or net profit realized from the deposit or investment of funds
29 hereunder may, upon receipt, be added to and dealt with as part of the revenues of the town from
30 property taxes. In exercising any discretion under this section, the director of finance shall be
31 governed by any instructions adopted by resolution of the town council.

32 SECTION 8. All bonds and notes issued under this act and the debts evidenced thereby
33 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
34 contracted by it and shall be excepted from the operation of § 45-12-2 of the general laws. No such

1 obligation shall at any time be included in the debt of the town for the purpose of ascertaining its
2 borrowing capacity. The town shall annually appropriate a sum sufficient to pay the principal and
3 interest coming due within the year on bonds and notes issued hereunder to the extent that monies
4 therefor are not otherwise provided. If such sum is not appropriated, it shall nevertheless be added
5 to the annual tax levy. In order to provide such sum in each year and notwithstanding any provision
6 of law to the contrary, all taxable property in the town shall be subject to ad valorem taxation by
7 the town without limitation as to rate or amount.

8 SECTION 9. Any bonds or notes issued under the provisions of this act, if properly
9 executed by officers of the town in office on the date of execution, shall be valid and binding
10 according to their terms notwithstanding that before the delivery thereof and payment therefor any
11 or all of such officers shall for any reason have ceased to hold office.

12 SECTION 10. The town, acting by resolution of its town council is authorized to apply for,
13 contract for and expend any federal or state advances or other grants or assistance which may be
14 available for the purposes of this act, and any such expenditures may be in addition to other monies
15 provided in this act. To the extent of any inconsistency between any law of this state and any
16 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with interest
17 where applicable, whether contracted for prior to or after the effective date of this act, may be
18 repaid as project costs under section 2.

19 SECTION 11. Bonds and notes may be issued under this act without obtaining the approval
20 of any governmental agency or the taking of any proceedings or the happening of any conditions
21 except as specifically required by this act for such issue. In carrying out any project financed in
22 whole or in part under this act, including where applicable the condemnation of any land or interest
23 in land, and in the levy and collection of assessments or other charges permitted by law on account
24 of any such project, all action shall be taken which is necessary to meet constitutional requirements
25 whether or not such action is otherwise required by statute; but the validity of bonds and notes
26 issued hereunder shall in no way depend upon the validity or occurrence of such action.

27 SECTION 12. All or any portion of the authority to issue bonds and notes under this act
28 may be extinguished by resolution of the town council, without further action by the general
29 assembly seven (7) years after the effective date of this act.

30 SECTION 13. The director of finance and the mayor, on behalf of the town, are hereby
31 authorized to execute such documents or other papers as either of them deem necessary or desirable
32 to carry out the intent of this act and are also authorized to take all actions and execute all documents
33 or agreements necessary to comply with federal tax and securities laws, which documents or
34 agreements may have a term coextensive with the maturity of the bonds authorized hereby,

1 including Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and to execute
2 and deliver a continuing disclosure agreement or certificate in connection with the bonds or notes
3 in the form as shall be deemed advisable by such officers in order to comply with the Rule.

4 SECTION 14. The question of the approval of this act shall be submitted to the electors of
5 the town at the next election to be held on November 7, 2023. The question shall be submitted in
6 substantially the following form: "Shall an Act, passed at the 2023 session of the General
7 Assembly, entitled, 'AN ACT AUTHORIZING THE TOWN OF CUMBERLAND TO ISSUE
8 NOT TO EXCEED \$52,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER
9 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION,
10 IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF A NEW
11 ELEMENTARY SCHOOL AND OTHER RELATED SCHOOL FACILITIES AND THE
12 DEMOLITION OF AN EXISTING ELEMENTARY SCHOOL ON LAND PRESENTLY
13 OCCUPIED BY THE B.F. NORTON SCHOOL IN THE TOWN PROVIDED THAT THE
14 AUTHORIZATION SHALL BE REDUCED BY ANY GRANT RECEIVED FROM THE
15 SCHOOL BUILDING AUTHORITY CAPITAL FUND' be approved?" and the warning for the
16 election shall contain the question to be submitted. From the time the election is warned and until
17 it is held, it shall be the duty of the town clerk to keep a copy of the act available at his/her office
18 for public inspection, but the validity of the election shall not be affected by this requirement.

19 SECTION 15. This section and the foregoing section shall take effect upon the passage of
20 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
21 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE TOWN OF CUMBERLAND TO ISSUE NOT TO EXCEED \$52,000,000
GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF
INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT,
ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF A NEW ELEMENTARY
SCHOOL AND OTHER RELATED SCHOOL FACILITIES AND THE DEMOLITION OF AN
EXISTING ELEMENTARY SCHOOL ON LAND PRESENTLY OCCUPIED BY THE B.F.
NORTON SCHOOL IN THE TOWN PROVIDED THAT THE AUTHORIZATION SHALL BE
REDUCED BY ANY GRANT RECEIVED FROM THE SCHOOL BUILDING AUTHORITY
CAPITAL FUND

1 This act would authorize the town of Cumberland to issue bonds and notes in an amount
2 not exceeding \$52,000,000 to finance the construction, renovation, improvement, alteration, repair,
3 furnishing and equipping of a new elementary school and other related school facilities and the
4 demolition of an existing elementary school on land presently occupied by the B. F. Norton School
5 in the town. The amount of borrowing authorized pursuant to this act shall be reduced by the amount
6 of any grant received by the town from the school building authority capital fund.

7 This act shall constitute an enabling act of the general assembly that is required pursuant
8 to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under this act for school
9 projects shall not be eligible for state housing aid reimbursement pursuant to § 16-7-44 unless the
10 school projects described herein have been approved by the Rhode Island department of education.

11 Sections 14 and 15 would take effect upon passage. The remainder of the act would take
12 effect upon approval of the question provided for in Section 14.

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