

**2014 -- H 8303**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2014**

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A N A C T

AUTHORIZING THE CITY OF NEWPORT TO FINANCE THE DESIGN, ACQUISITION, DEMOLITION, CONSTRUCTION, REPAIR, REHABILITATION, IMPROVEMENT, ALTERATION, LANDSCAPING, FURNISHING AND EQUIPPING OF MUNICIPAL FACILITIES FOR SCHOOL, RECREATION, LIBRARY AND OTHER PUBLIC USES BY THE ISSUANCE OF NOT MORE THAN \$6,000,000 BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS THEREFOR

Introduced By: Representative Peter F.Martin

Date Introduced: June 11, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

1           SECTION 2. The bonds shall be signed by the manual or facsimile signatures of the city  
2 finance director and the mayor and shall be issued and sold in such amounts as the city council  
3 may authorize by resolution. The manner of sale, denominations, maturities, interest rates and  
4 other terms, conditions and details of any bonds or notes issued under this act may be fixed by  
5 proceedings of the city council authorizing the issue or by separate resolution of the city council  
6 or, to the extent provisions for these matters are not so made, they may be fixed by the officers  
7 authorized to sign the bonds or notes. Interest coupons (if any) shall bear the manual or facsimile  
8 signature of the city finance director. Such election may be fixed by the proceedings of the city  
9 council authorizing such issuance of by separate resolution of the city council, or, to the extent  
10 provisions for these matters are not so made, they may be fixed by the officers authorized to sign  
11 the bonds or notes. The proceeds derived from the sale of the bonds shall be delivered to the city  
12 finance director, and such proceeds, exclusive of premiums and accrued interest, shall be  
13 expended to: (1) Finance the design, acquisition, demolition, construction, repair, rehabilitation,  
14 improvement, alteration, landscaping, furnishing and equipping of municipal facilities for school,  
15 recreation, library and other public uses in the City (the "Projects"); or (2) Pay the principal of or  
16 interest on temporary notes issued under section three; or (3) Pay the costs in connection with the  
17 issuance of the bonds or notes; or (4) Finance capitalized interest on the Project; or (5) Repay any  
18 advances under section 4. No purchaser of any bonds or notes under this act shall be in any way  
19 responsible for the proper application of the proceeds derived from the sale thereof. The proceeds  
20 of bonds or notes issued under this act, any applicable federal or state assistance and the other  
21 monies referred to in sections 6 and 9, shall be deemed appropriated for the purposes of this act  
22 without further action than that required by this act. The bond issue authorized by this act may be  
23 consolidated for the purposes of issuance and sale with any other bond issue of the city heretofore  
24 or hereafter authorized, provided that, notwithstanding any such consolidation, the proceeds from  
25 the sale of the bonds authorized by this act shall be expended for the purposes set forth above.  
26 The city finance director and the mayor, on behalf of the city, are hereby authorized to execute  
27 such instruments, documents or other papers as either of them deem necessary or desirable to  
28 carry out the intent of this act and are also authorized to take all actions and execute all  
29 documents or agreements necessary to comply with federal tax and securities laws, which  
30 documents or agreements may have a term coextensive with the maturity of the bonds authorized  
31 hereby.

32           SECTION 3. The city council may by resolution authorize the issuance from time to time  
33 of interest bearing or discounted notes in anticipation of the issuance of bonds or in anticipation  
34 of the receipt of federal or state aid for the purposes of this act. The amount of original notes

1 issued in anticipation of bonds may not exceed the amount of bonds which may be issued under  
2 this act and the amount of original notes issued in anticipation of federal or state aid may not  
3 exceed the amount of available federal or state aid as estimated by the city finance director.  
4 Temporary notes issued hereunder shall be signed by the manual or facsimile signatures of the  
5 city finance director and the mayor and shall be payable within five (5) years from their  
6 respective dates, but the principal of and interest on notes issued for a shorter period may be  
7 renewed or paid from time to time by the issuance of other notes hereunder, provided the period  
8 from the date of an original note to the maturity of any note issued to renew or pay the same debt  
9 or the interest thereon shall not exceed five (5) years. Any temporary notes in anticipation of  
10 bonds issued under this section may be refunded prior to the maturity of the notes by the issuance  
11 of additional temporary notes, provided that no such refunding shall result in any amount of such  
12 temporary notes outstanding at any one time in excess of two hundred percent (200%) of the  
13 amount of bonds which may be issued under this act, and provided further that if the issuance of  
14 any such refunding notes results in any amount of such temporary notes outstanding at any one  
15 time in excess of the amount of bonds which may be issued under this act, the proceeds of such  
16 refunding notes shall be deposited in a separate fund established with the bank which is paying  
17 agent for the notes being refunded. Pending their use to pay the notes being refunded, monies in  
18 the fund shall be invested for the benefit of the city by the paying agent at the direction of the city  
19 finance director in any investment permitted under section 5. The monies in the fund and any  
20 investments held as a part of the fund shall be held in trust and shall be applied by the paying  
21 agent solely to the payment or prepayment of the principal of and interest on the notes being  
22 refunded. Upon payment of all principal of and interest on the notes, any excess monies in the  
23 fund shall be distributed to the city. The city may pay the principal of and interest on notes in full  
24 from other than the issuance of refunding notes prior to the issuance of bonds pursuant to section  
25 1 hereof. In such case, the city's authority to issue bonds or notes in anticipation of bonds under  
26 this act shall continue provided that: (1) The city council passes a resolution evidencing the city's  
27 intent to pay off the notes; and (2) That the period from the date of an original note to the  
28 maturity date of any other note shall not exceed five (5) years.

29         SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu  
30 of any authorization or issue of notes hereunder, the city finance director, with the approval of the  
31 city council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the  
32 treasury of the city to the purposes specified in section 2, such advances to be repaid without  
33 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of  
34 applicable federal or state assistance or from other available funds.

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

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

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

33 SECTION 8. Any bonds or notes issued under the provisions of this act, and coupons, if  
34 any, if properly executed by officers of the city in office on the date of execution, shall be valid

1 and binding according to their terms notwithstanding that before the delivery thereof and payment  
2 therefor any or all of such officers shall for any reason have ceased to hold office.

3 SECTION 9. The city, acting by resolution of its city council, is authorized to apply for,  
4 contract for and expend any federal or state advances or other grants of assistance which may be  
5 available for the purposes of this act, and any such expenditures may be in addition to the monies  
6 provided in this act. To the extent of any inconsistency between any law of this state and any  
7 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with  
8 interest where applicable, whether contracted for prior to or after the effective date of this act,  
9 may be repaid as project costs under section 2.

10 SECTION 10. Bonds and notes may be issued under this act without obtaining approval  
11 of any governmental agency or the taking of any proceedings or the happening of any conditions  
12 except as specifically required by this act for such issue. In carrying out any project financed in  
13 whole or in part under this act, including where applicable the condemnation of any land or  
14 interest in land, and in the levy and collection of assessments or other charges permitted by law  
15 on account of any such project, all action shall be taken which is necessary to meet constitutional  
16 requirements whether or not such action is otherwise required by statute, but the validity of bonds  
17 and notes issued hereunder shall in no way depend upon the validity or occurrence of such action.

18 SECTION 11. All or any portion of the authority to issue bonds and notes under this act  
19 may be extinguished by resolution of the city council, without further action by the general  
20 assembly, seven (7) years after the effective date of this act.

21 SECTION 12. The city finance director and the mayor, on behalf of the city, are hereby  
22 authorized to execute such instruments, documents or other papers as either of them deem  
23 necessary or desirable to carry out the intent of this act and are also authorized to take all actions  
24 and execute all documents or agreements necessary to comply with federal tax and securities  
25 laws, which documents or agreements may have a term coextensive with the maturity of the  
26 bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange Commission  
27 (the "Rule") and to execute and deliver a continuing disclosure agreement or certificate in  
28 connection with the bonds or notes in the form as shall be deemed advisable by such officers in  
29 order to comply with the Rule.

30 SECTION 13. The question of the approval of this act shall be submitted to the electors  
31 of the city at the general election to be held on November 4, 2014. The question shall be  
32 submitted in substantially the following form: "Shall an act passed at the 2014 session of the  
33 general assembly entitled 'AN ACT AUTHORIZING THE CITY OF NEWPORT TO FINANCE  
34 THE DESIGN, ACQUISITION, DEMOLITION, CONSTRUCTION, REPAIR,

1 REHABILITATION, IMPROVEMENT, ALTERATION, LANDSCAPING, FURNISHING  
2 AND EQUIPPING OF MUNICIPAL FACILITIES FOR SCHOOL, RECREATION, LIBRARY  
3 AND OTHER PUBLIC USES BY THE ISSUANCE OF NOT MORE THAN \$6,000,000  
4 BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS THEREFOR,' be  
5 approved?" and the warning for the election shall contain the question to be submitted. From the  
6 time the election is warned and until it is held, it shall be the duty of the city clerk to keep a copy  
7 of the act available at his or her office for public inspection, but the validity of the election shall  
8 not be affected by this requirement. To the extent of any inconsistency between this act and the  
9 city charter, this act shall prevail.

10 SECTION 14. Sections 13 and 14 shall take effect upon the passage of this act. The  
11 remainder of this act shall take effect upon the approval of this act by a majority of those voting  
12 on the question at the election prescribed by section 13.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE CITY OF NEWPORT TO FINANCE THE DESIGN, ACQUISITION, DEMOLITION, CONSTRUCTION, REPAIR, REHABILITATION, IMPROVEMENT, ALTERATION, LANDSCAPING, FURNISHING AND EQUIPPING OF MUNICIPAL FACILITIES FOR SCHOOL, RECREATION, LIBRARY AND OTHER PUBLIC USES BY THE ISSUANCE OF NOT MORE THAN \$6,000,000 BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS THEREFOR

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1           This act would authorize the city of Newport to issue not more than \$6,000,000 bonds,  
2 notes and other evidences of indebtedness to finance the design, acquisition, demolition,  
3 construction, repair, rehabilitation, improvement, alteration, landscaping, furnishing and  
4 equipping of municipal facilities for school, recreation, library and other public uses in the City.

5           Sections 13 and 14 would take effect upon passage. The remainder of the Act would take  
6 effect upon approval of the question provided for in Section 13.

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