

2020 -- S 2853

LC005377

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

AUTHORIZING THE CITY OF NEWPORT TO ISSUE NOT TO EXCEED \$106,500,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE ALL COSTS RELATING TO THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF: (I) AN ADDITION TO THE CLAIBORNE PELL ELEMENTARY SCHOOL, INCLUDING, BUT NOT LIMITED TO, CLASSROOMS AND ASSOCIATED SUPPORT SPACE, SITE IMPROVEMENTS, AND PARKING AND (II) A NEW SCHOOL FACILITY FOR THE WILLIAM S. ROGERS HIGH SCHOOL, PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

Introduced By: Senators Euer, and DiPalma

Date Introduced: May 26, 2020

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. The city of Newport is hereby authorized, in addition to authority previously  
2 granted, to issue bonds and other evidences of indebtedness (hereinafter "bonds") up to an amount  
3 not exceeding one hundred six million five hundred thousand dollars (\$106,500,000) from time to  
4 time under its corporate name and seal or a facsimile of such seal. The bonds of each issue may be  
5 issued in the form of serial bonds or term bonds or a combination thereof and shall be payable  
6 either by maturity of principal in the case of serial bonds or by mandatory sinking fund installments  
7 in the case of term bonds, in annual installments of principal, the first installment to be not later  
8 than five (5) years and the last installment not later than thirty (30) years after the date of the bonds.  
9 All such bonds of a particular issue may be issued in the form of zero coupon bonds, capital  
10 appreciation bonds, serial bonds or term bonds or a combination thereof. The amount of principal  
11 appreciation each year on any bonds, after the date of original issuance, shall not be considered to  
12 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any other  
13 limitation. The appreciation of principal after the date of original issue shall be considered interest.

1 Only the original principal amount shall be counted in determining the principal amount so issued  
2 and any interest component shall be disregarded.

3 SECTION 2. The city may be eligible for school housing aid reimbursement on debt  
4 service pursuant to chapter 7 of title 16, or for a grant, loan or other financial assistance from  
5 proceeds of bonds issued by the state of Rhode Island (the "state"), from the Rhode Island  
6 department of education ("RIDE") or from the Rhode Island school building authority. The amount  
7 of borrowing authorized pursuant to this act shall be reduced by the amount of certain grants  
8 actually received by the city from state bond proceeds, from RIDE or from the Rhode Island  
9 school building authority; provided however, that the amount of borrowing authorized shall not be  
10 reduced by the amount of any grant received by the city for any portion of the projects funded by  
11 capital reserve funds.

12 SECTION 3. The bonds shall be signed by the city director of finance and by the manual  
13 or facsimile signature of the mayor and be issued and sold in such amounts as the city council may  
14 determine by resolution. The manner of sale, denominations, maturities, interest rates and other  
15 terms, conditions and details of any notes or bonds issued under this act may be fixed by the  
16 proceedings of the city council authorizing the issue or by separate resolution of the city council  
17 or, to the extent provisions for these matters are not so made, they may be fixed by the officers  
18 authorized to sign the bonds or notes. Notwithstanding anything contained in this act to the  
19 contrary, the city may enter into financing agreements with the Rhode Island Health and  
20 Educational Building Corporation pursuant to chapter 7 of title 16 and chapter 38.1 of title 45 and,  
21 with respect to bonds or notes issued in connection with such financing agreements, if any, the city  
22 may elect to have the provisions of chapter 38.1 of title 45 apply to the issuance of the bonds or  
23 notes issued hereunder to the extent the provisions of chapter 38.1 of title 45 are inconsistent  
24 herewith. In addition, the city may enter into financing agreements with the Rhode Island  
25 Infrastructure Bank pursuant to the provisions of chapter 12.2 of title 46 and, with respect to notes  
26 or bonds issued in connection with such financing agreements, if any, the city may elect to have  
27 the provisions of chapter 12.2 of title 46 apply to the issuance of the bonds or notes issued hereunder  
28 to the extent the provisions of chapter 12.2 of title 46 are inconsistent herewith. Such election may  
29 be fixed by the proceedings of the city council authorizing such issuance by separate resolution of  
30 the city council, or, to the extent provisions for these matters are not so made, they may be fixed  
31 by the officers authorized to sign the bonds or notes. The proceeds derived from the sale of the  
32 bonds shall be delivered to the city director of finance, and such proceeds, exclusive of premiums  
33 and accrued interest, shall be expended: (1) To finance all costs relating to the  
34 construction, renovation, improvement, alteration, repair, landscaping, furnishing and equipping

1 of: (i) An addition to the Claiborne Pell Elementary School including, but not limited to, classrooms  
2 and associated support space, site improvements, and parking; and (ii) A new school facility for  
3 the William S. Rogers High School (the “projects”); (2) In payment of the principal of or interest  
4 on temporary notes issued under section 4; (3) In repayment of advances under section 5; (4) In  
5 payment of related costs of issuance of any bonds or notes; and/or (5) In payment of capitalized  
6 interest during construction of the projects. No purchaser of any bonds or notes under this act shall  
7 be in any way responsible for the proper application of the proceeds derived from the sale thereof.  
8 The proceeds of bonds or notes issued under this act, any applicable federal or state assistance and  
9 the other monies referred to in sections 7 and 10 shall be deemed appropriated for the purposes of  
10 this act without further action than that required by this act. The bonds authorized by this act may  
11 be consolidated for the purpose of issuance and sale with any other bonds of the city heretofore or  
12 hereafter authorized, provided that, notwithstanding any such consolidation, the proceeds from the  
13 sale of the bonds authorized by this act shall be expended for the purposes set forth above.

14 SECTION 4. The city council may by resolution authorize the issuance from time to time  
15 of interest bearing or discounted notes in anticipation of the issue of bonds under section 3 or in  
16 anticipation of the receipt of federal or state aid for the purposes of this act. The amount of original  
17 notes issued in anticipation of bonds may not exceed the amount of bonds which may be issued  
18 under this act and the amount of original notes issued in anticipation of federal or state aid may not  
19 exceed the amount of available federal or state aid as estimated by the city director of finance.  
20 Temporary notes issued hereunder shall be signed by the manual or facsimile signatures of the city  
21 director of finance and the mayor and shall be payable within five (5) years from their respective  
22 dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid  
23 from time to time by the issue of other notes hereunder, provided the period from the date of an  
24 original note to the maturity of any note issued to renew or pay the same debt or the interest thereon  
25 shall not exceed five (5) years. Any temporary notes in anticipation of bonds issued under this  
26 section may be refunded prior to the maturity of the notes by the issuance of additional temporary  
27 notes, provided that no such refunding shall result in any amount of such temporary notes  
28 outstanding at any one time in excess of two hundred percent (200%) of the amount of bonds which  
29 may be issued under this act, and provided further that if the issuance of any such refunding notes  
30 results in any amount of such temporary notes outstanding at any one time in excess of the amount  
31 of bonds which may be issued under this act, the proceeds of such refunding notes shall be deposited  
32 in a separate fund established with the bank which is paying agent for the notes being refunded.  
33 Pending their use to pay the notes being refunded, monies in the fund shall be invested for the  
34 benefit of the city by the paying agent at the direction of the city director of finance in any

1 investment permitted under section 6. The monies in the fund and any investments held as a part  
2 of the fund shall be held in trust and shall be applied by the paying agent solely to the payment or  
3 prepayment of the principal of and interest on the notes being refunded. Upon payment of all  
4 principal of and interest on the notes, any excess monies in the fund shall be distributed to the city.  
5 The city may pay the principal of and interest on notes in full from other than the issuance of  
6 refunding notes prior to the issuance of bonds pursuant to section 1 hereof. In such case, the city's  
7 authority to issue bonds or notes in anticipation of bonds under this act shall continue provided  
8 that: (1) The city council passes a resolution evidencing the city's intent to pay off the notes without  
9 extinguishing the authority to issue bonds or notes; and (2) That the period from the date of an  
10 original note to the maturity date of any other note shall not exceed five (5) years.

11 SECTION 5. Pending any authorization or issue of bonds hereunder or pending or in lieu  
12 of any authorization or issue of notes hereunder, the city director of finance, with the approval of  
13 the city council may, to the extent that bonds or notes may be issued hereunder, apply funds in the  
14 general treasury of the city to the purposes specified in section 3, such advances to be repaid without  
15 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of applicable  
16 federal or state assistance or from other available funds.

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

24 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder shall  
25 be applied to the payment of the first interest due thereon. Any premiums arising from the sale of  
26 bonds or notes hereunder and, to the extent permitted by applicable federal laws, any net earnings  
27 or profits realized from the deposit or investment of funds hereunder shall, in the discretion of the  
28 city director of finance, be applied to the cost of preparing, issuing, and marketing bonds or notes  
29 hereunder to the extent not otherwise provided, to the payment of the cost of the projects, to the  
30 payment of the principal of or interest on bonds or notes issued hereunder, to the revenues of the  
31 city and dealt with as part of the revenues of the city from property taxes to the extent permitted by  
32 federal law, or to any one or more of the foregoing. The cost of preparing, issuing, and marketing  
33 bonds or notes hereunder may also, in the discretion of the city director of finance, be met from  
34 bond or note proceeds exclusive of premium and accrued interest or from other monies available

1 therefor. Any balance of bond or note proceeds remaining after payment of the cost of the projects  
2 and the cost of preparing, issuing and marketing bonds or notes hereunder shall be applied to the  
3 payment of the principal of or interest on bonds or notes issued hereunder. To the extent permitted  
4 by applicable federal laws, any earnings or net profit realized from the deposit or investment of  
5 funds hereunder may, upon receipt, be added to and dealt with as part of the revenues of the city  
6 from property taxes. In exercising any discretion under this section, the city director of finance shall  
7 be governed by any instructions adopted by resolution of the city council.

8 SECTION 8. All bonds and notes issued under this act and the debt evidenced thereby shall  
9 be obligatory on the city in the same manner and to the same extent as other debts lawfully  
10 contracted by it and shall be excepted from the operation of § 45-12-2 and any provision of the city  
11 charter. No such obligation shall at any time be included in the debt of the city for the purpose of  
12 ascertaining its borrowing capacity. The city shall annually appropriate a sum sufficient to pay the  
13 principal and interest coming due within the year on bonds and notes issued hereunder to the extent  
14 that monies therefor are not otherwise provided. If such sum is not appropriated, it shall  
15 nevertheless be added to the annual tax levy. In order to provide such sum in each year and  
16 notwithstanding any provisions of law to the contrary, all taxable property in the city shall be  
17 subject to ad valorem taxation by the city without limitation as to rate or amount.

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

22 SECTION 10. The city, acting by resolution of its city council is authorized to apply for,  
23 contract for and expend any federal or state advances or other grants of assistance which may be  
24 available for the purposes of this act, and any such expenditures may be in addition to other monies  
25 provided in this act. To the extent of any inconsistency between any law of this state and any  
26 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with interest  
27 where applicable, whether contracted for prior to or after the effective date of this act, may be  
28 repaid as a cost of the projects under section 3.

29 SECTION 11. Bonds and notes may be issued under this act without obtaining the approval  
30 of any governmental agency or the taking of any proceedings or the happening of any conditions  
31 except as specifically required by this act for such issue. In carrying out any project financed in  
32 whole or in part under this act, including where applicable the condemnation of any land or interest  
33 in land, and in the levy and collection of assessments or other charges permitted by law on account  
34 of any such project, all action shall be taken which is necessary to meet constitutional requirements

1 whether or not such action is otherwise required by statute, but the validity of bonds and notes  
2 issued hereunder shall in no way depend upon the validity or occurrence of such action.

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

11 SECTION 13. All or any portion of the authorized but unissued authority to issue bonds  
12 and notes under this act may be extinguished by resolution of the city council, without further action  
13 by the general assembly, seven (7) years after the effective date of this act.

14 SECTION 14. The question of the approval of this act shall be submitted to the electors of  
15 the city at the general election to be held on November 3, 2020 or, if so determined by the city  
16 council, at a special city-wide election, other than a primary, held on a date to be determined by  
17 resolution of the city council. The question shall be submitted in substantially the following form:  
18 "Shall an act passed at the 2020 session of the general assembly entitled 'AN ACT AUTHORIZING  
19 THE CITY OF NEWPORT TO ISSUE NOT TO EXCEED \$106,500,000 GENERAL  
20 OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO  
21 FINANCE ALL COSTS RELATING TO THE CONSTRUCTION, RENOVATION,  
22 IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND  
23 EQUIPPING OF: (I) AN ADDITION TO THE CLAIBORNE PELL ELEMENTARY  
24 SCHOOL, INCLUDING, BUT NOT LIMITED TO, CLASSROOMS AND ASSOCIATED  
25 SUPPORT SPACE SITE IMPROVEMENTS, AND PARKING AND (II) A NEW SCHOOL  
26 FACILITY FOR THE WILLIAM S. ROGERS HIGH SCHOOL, PROVIDED THAT THE  
27 AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS  
28 RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND  
29 DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING  
30 AUTHORITY' be approved?" and the warning for the election shall contain the question to be  
31 submitted. From the time the election is warned and until it is held, it shall be the duty of the city  
32 clerk to keep a copy of the act available at the clerk's office for public inspection, but the validity  
33 of the election shall not be affected by this requirement. To the extent of any inconsistency between  
34 this act and the city charter or any law of special applicability to the city, this act shall prevail.

1           SECTION 15. This act shall constitute an enabling act of the general assembly that is  
2 required pursuant to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under  
3 this act for school projects shall not be eligible for state aid reimbursement pursuant to § 16-7-44  
4 unless the school projects described herein have been approved by RIDE.

5           SECTION 16. Sections 14 and 15 shall take effect upon the passage. The remainder of this  
6 act shall take effect upon the approval of this act by a majority of those voting on the question at  
7 the election prescribed by section 14.

=====  
LC005377  
=====

EXPLANATION

OF

A N A C T

AUTHORIZING THE CITY OF NEWPORT TO ISSUE NOT TO EXCEED \$106,500,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE ALL COSTS RELATING TO THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF: (I) AN ADDITION TO THE CLAIBORNE PELL ELEMENTARY SCHOOL, INCLUDING, BUT NOT LIMITED TO, CLASSROOMS AND ASSOCIATED SUPPORT SPACE, SITE IMPROVEMENTS, AND PARKING AND (II) A NEW SCHOOL FACILITY FOR THE WILLIAM S. ROGERS HIGH SCHOOL, PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

\*\*\*

1           This act would authorize the city of Newport to issue not more than \$106,500,000 general  
2 obligation bonds, notes and other evidences of indebtedness to finance all costs relating to the  
3 Claiborne Pell Elementary School the construction, renovation, improvement, alteration, repair,  
4 landscaping, furnishing and equipping of: (i) An addition to the Claiborne Pell Elementary School,  
5 including, but not limited to, classrooms and associated support space site improvements, and  
6 parking and (ii) A new school facility for the William S. Rogers High School, provided that the  
7 authorization shall be reduced by the amount of certain grants received from State bond proceeds,  
8 from the Rhode Island Department of Education or from the Rhode Island School Building  
9 Authority.

10           This act would constitute an enabling act of the general assembly that is required pursuant  
11 to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under this act for school  
12 projects shall not be eligible for state aid reimbursement pursuant to § 16-7-44 unless the school  
13 projects described herein have been approved by the Rhode Island Department of Education  
14 ("RIDE").

15           Sections 15 and 16 would take effect upon passage. The remainder of the act would take  
16 effect upon approval of the question provided for in section 15.

=====  
LC005377  
=====