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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

AUTHORIZING THE CITY OF NEWPORT TO FINANCE THE DESIGN, ACQUISITION, DEMOLITION, CONSTRUCTION, REPAIR, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF A NEW ELEMENTARY SCHOOL, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING AND CONSTRUCTION MANAGEMENT SERVICES, BY THE ISSUANCE OF NOT MORE THAN \$30,000,000 BONDS AND/OR NOTES THEREFOR

Introduced By: Senators Paiva-Weed, and DiPalma

Date Introduced: May 26, 2010

Referred To: Senate 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 thirty million dollars  
3 (\$30,000,000) from time to time under its corporate name and seal. The bonds of each issue may  
4 be issued in the form of serial bonds or term bonds or a combination thereof and shall be payable  
5 either by maturity of principal in the case of serial bonds or by mandatory sinking fund  
6 installments in the case of term bonds, in annual installments of principal, the first installment to  
7 be not later than five (5) years and the last installment not later than thirty (30) years after the date  
8 of the bonds. All such bonds of a particular issue may be issued in the form of zero coupon  
9 bonds, capital appreciation bonds, serial bonds or term bonds or a combination thereof. Annual  
10 installments of principal may be provided for by maturity of principal in the case of serial bonds  
11 or by mandatory sinking fund installments in the case of term bonds. The amount of principal  
12 appreciation each year on any bonds, after the date of original issuance, shall not be considered to  
13 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any  
14 other limitation. The appreciation of principal after the date of original issue shall be considered  
15 interest. Only the original principal amount shall be counted in determining the principal amount  
16 so issued and any 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. Notwithstanding anything contained in this act to the  
9 contrary, the city may enter into financing agreements with the Rhode Island Health and  
10 Educational Building Corporation pursuant to title 16 chapter 7 and title 45 chapter 38.1 of the  
11 general laws and, with respect to notes or bonds issued in connection with such financing  
12 agreements, if any, the city may elect to have the provisions of title 45, chapter 38.1 of the  
13 general laws apply to the issuance of the bonds or notes issued hereunder to the extent the  
14 provisions of title 45, chapter 38.1 of the general laws are inconsistent herewith. Such election  
15 may be fixed by the proceedings of the city council authorizing such issuance of by separate  
16 resolution of the city council, or, to the extent provisions for these matters are not so made, they  
17 may be fixed by the officers authorized to sign the bonds or notes. The proceeds derived from the  
18 sale of the bonds shall be delivered to the city finance director, and such proceeds, exclusive of  
19 premiums and accrued interest, shall be expended to: a) finance the design, acquisition,  
20 demolition, construction, repair, rehabilitation, improvement, furnishing and equipping of a new  
21 elementary school, including but not limited to, landscaping and construction management  
22 services (the "Project"), or b) pay the principal of or interest on temporary notes issued under  
23 section three, or c) pay the costs in connection with the issuance of the bonds or notes, or d)  
24 finance capitalized interest on the Project or e) repay any advances under section four. No  
25 purchaser of any bonds or notes under this act shall be in any way responsible for the proper  
26 application of the proceeds derived from the sale thereof. The proceeds of bonds or notes issued  
27 under this act, any applicable federal or state assistance and the other moneys referred to in  
28 sections six and nine, shall be deemed appropriated for the purposes of this act without further  
29 action than that required by this act. The bond issue authorized by this act may be consolidated  
30 for the purposes of issuance and sale with any other bond issue of the city heretofore or hereafter  
31 authorized, provided that, notwithstanding any such consolidation, the proceeds from the sale of  
32 the bonds authorized by this act shall be expended for the purposes set forth above. The city  
33 finance director and the mayor, on behalf of the city, are hereby authorized to execute such  
34 instruments, documents or other papers as either of them deem necessary or desirable to carry out

1 the intent of this act and are also authorized to take all actions and execute all documents or  
2 agreements necessary to comply with federal tax and securities laws, which documents or  
3 agreements may have a term coextensive with the maturity of the bonds authorized hereby.

4 SECTION 3. The city council may by resolution authorize the issuance from time to time  
5 of interest bearing or discounted notes in anticipation of the issuance of bonds or in anticipation  
6 of the receipt of federal or state aid for the purposes of this act. The amount of original notes  
7 issued in anticipation of bonds may not exceed the amount of bonds which may be issued under  
8 this act and the amount of original notes issued in anticipation of federal or state aid may not  
9 exceed the amount of available federal or state aid as estimated by the city finance director.

10 Temporary notes issued hereunder shall be signed by the manual or facsimile signatures of the  
11 city finance director and the mayor and shall be payable within five (5) years from their  
12 respective dates, but the principal of and interest on notes issued for a shorter period may be  
13 renewed or paid from time to time by the issuance of other notes hereunder, provided the period  
14 from the date of an original note to the maturity of any note issued to renew or pay the same debt  
15 or the interest thereon shall not exceed five (5) years. Any temporary notes in anticipation of  
16 bonds issued under this section may be refunded prior to the maturity of the notes by the issuance  
17 of additional temporary notes, provided that no such refunding shall result in any amount of such  
18 temporary notes outstanding at any one time in excess of two hundred percent (200%) of the  
19 amount of bonds which may be issued under this act, and provided further that if the issuance of  
20 any such refunding notes results in any amount of such temporary notes outstanding at any one  
21 time in excess of the amount of bonds which may be issued under this act, the proceeds of such  
22 refunding notes shall be deposited in a separate fund established with the bank which is paying  
23 agent for the notes being refunded. Pending their use to pay the notes being refunded, moneys in  
24 the fund shall be invested for the benefit of the city by the paying agent at the direction of the city  
25 finance director in any investment permitted under section five. The moneys in the fund and any  
26 investments held as a part of the fund shall be held in trust and shall be applied by the paying  
27 agent solely to the payment or prepayment of the principal of and interest on the notes being  
28 refunded. Upon payment of all principal of and interest on the notes, any excess moneys in the  
29 fund shall be distributed to the city. The city may pay the principal of and interest on notes in full  
30 from other than the issuance of refunding notes prior to the issuance of bonds pursuant to Section  
31 1 hereof. In such case, the city's authority to issue bonds or notes in anticipation of bonds under  
32 this act shall continue provided that 1) the city council passes a resolution evidencing the city's  
33 intent to pay off the notes and 2) that the period from the date of an original note to the maturity  
34 date of any other note shall not exceed five (5) years.

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

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

14           SECTION 6. Any accrued interest received upon the sale of bonds or notes hereunder  
15 shall be applied to the payment of the first interest due thereon. Any premium arising from the  
16 sale of bonds or notes hereunder shall, in the discretion of the city finance director, be applied to  
17 the cost of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise  
18 provided, to the payment of project costs, to the payment of the principal of or interest on bonds  
19 or notes issued hereunder or to any one (1) or more of the foregoing. The cost of preparing,  
20 issuing and marketing bonds or notes hereunder may also, in the discretion of the city finance  
21 director, be met from bond or note proceeds exclusive of premium and accrued interest or from  
22 other moneys available therefor. Any balance of bond or note proceeds remaining after payment  
23 of the cost of the project and the cost of preparing, issuing and marketing bonds or notes  
24 hereunder shall be applied to the payment of the principal of or interest on bonds or notes issued  
25 hereunder. To the extent permitted by applicable federal laws, any earnings or net profit realized  
26 from the deposit or investment of funds hereunder may upon receipt be added to and dealt with as  
27 part of the revenues of the city from property taxes. In exercising any discretion under this  
28 section, the city finance director shall be governed by any instructions adopted by resolution of  
29 the city council.

30           SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby  
31 shall be obligatory on the city in the same manner and to the same extent as other debts lawfully  
32 contracted by it and shall be excepted from the operation of section 45-12-2 of the general laws  
33 and the provisions of the city charter. No such obligation shall at any time be included in the debt  
34 of the city for the purpose of ascertaining its borrowing capacity. The city shall annually

1 appropriate a sum sufficient to pay the principal and interest coming due within the year on bonds  
2 and notes issued hereunder to the extent that moneys therefor are not otherwise provided. If such  
3 sum is not appropriated, it shall nevertheless be added to the annual tax levy. In order to provide  
4 such sum in each year and notwithstanding any provision of law to the contrary, all taxable  
5 property in the city shall be subject to [ad valorem](#) taxation by the city without limitation as to rate  
6 or amount.

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

11 SECTION 9. The city, acting by resolution of its city council, is authorized to apply for,  
12 contract for and expend any federal or state advances or other grants of assistance which may be  
13 available for the purposes of this act, and any such expenditures may be in addition to the moneys  
14 provided in this act. To the extent of any inconsistency between any law of this state and any  
15 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with  
16 interest where applicable, whether contracted for prior to or after the effective date of this act,  
17 may be repaid as project costs under section two.

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

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

29 SECTION 12. The city finance director and the mayor, on behalf of the city, are hereby  
30 authorized to execute such instruments, documents or other papers as either of them deem  
31 necessary or desirable to carry out the intent of this act and are also authorized to take all actions  
32 and execute all documents or agreements necessary to comply with federal tax and securities  
33 laws, which documents or agreements may have a term coextensive with the maturity of the  
34 bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange Commission

1 (the "Rule") and to execute and deliver a continuing disclosure agreement or certificate in  
2 connection with the bonds or notes in the form as shall be deemed advisable by such officers in  
3 order to comply with the Rule.

4 SECTION 13. The question of the approval of this act shall be submitted to the electors  
5 of the city at a general or special election (other than a primary election) to be held on any date as  
6 shall be designated by the city council. The question shall be submitted in substantially the  
7 following form: "Shall an act passed at the 2010 session of the general assembly entitled 'AN  
8 ACT AUTHORIZING THE CITY OF NEWPORT TO FINANCE THE DESIGN,  
9 ACQUISITION, DEMOLITION, CONSTRUCTION, REPAIR, REHABILITATION,  
10 IMPROVEMENT, FURNISHING AND EQUIPPING OF A NEW ELEMENTARY SCHOOL,  
11 INCLUDING BUT NOT LIMITED TO, LANDSCAPING AND CONSTRUCTION  
12 MANAGEMENT SERVICES, BY THE ISSUANCE OF NOT MORE THAN \$30,000,000  
13 BONDS AND/OR NOTES THEREFOR,' be approved?" and the warning for the election shall  
14 contain the question to be submitted. From the time the election is warned and until it is held, it  
15 shall be the duty of the city clerk to keep a copy of the act available at his or her office for public  
16 inspection, but the validity of the election shall not be affected by this requirement. To the extent  
17 of any inconsistency between this act and the city charter, this act shall prevail.

18 SECTION 14. This section and the foregoing section shall take effect upon the passage of  
19 this act. The remainder of this act shall take effect upon the approval of this act by a majority of  
20 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

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AUTHORIZING THE CITY OF NEWPORT TO FINANCE THE DESIGN, ACQUISITION, DEMOLITION, CONSTRUCTION, REPAIR, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF A NEW ELEMENTARY SCHOOL, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING AND CONSTRUCTION MANAGEMENT SERVICES, BY THE ISSUANCE OF NOT MORE THAN \$30,000,000 BONDS AND/OR NOTES THEREFOR

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1           This act would authorize the city of Newport to issue not more than \$30,000,000 bonds  
2 and notes to finance the design, acquisition, demolition, construction, repair, rehabilitation,  
3 improvement, furnishing and equipping of a new elementary school, including, but not limited to,  
4 landscaping and construction management services.

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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