

2020 -- S 2845

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LC005293
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

AUTHORIZING THE TOWN OF PORTSMOUTH TO ISSUE NOT TO EXCEED \$65,900,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, ADDITIONS, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR STATE AID AND PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY ANY GRANT RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND

Introduced By: Senator James Arthur Seveney

Date Introduced: March 12, 2020

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. The town of Portsmouth is hereby empowered, in addition to authority
2 previously granted, to issue bonds in an amount not exceeding sixty-five million nine hundred
3 thousand dollars (\$65,900,000) from time to time under its corporate name and seal; provided
4 however, that bonds shall not be issued unless the conditions of section 2 hereof as to the level of
5 state aid are met. The bonds of each issue may be issued in the form of zero coupon bonds, capital
6 appreciation bonds, serial bonds or term bonds or a combination thereof and shall be payable either
7 by maturity of principal in the case of serial bonds or by mandatory serial redemption in the case
8 of term bonds, in installments of principal, the first installment to be not later than five (5) years
9 and the last installment not later than thirty (30) years after the date the bonds are issued.

10 SECTION 2. The town may be eligible for school housing aid reimbursement on debt
11 service pursuant to chapter 7 of title 16, or for a grant, loan or other "financial assistance" as defined
12 in §45-38.2-1(6), from the School Building Authority Capital Fund under chapter 38.2 of title 45.
13 The amount of borrowing authorized pursuant to this act shall be reduced by the amount of any
14 grant received by the town from the School Building Authority Capital Fund. Bonds, notes or other
15 evidences of indebtedness shall not be issued under this act unless the town has received a letter

1 from the Rhode Island Department of Education ("RIDE") confirming that the then-current school
2 housing aid reimbursement rate under chapter 7 of title 16, as amended from time to time, or
3 financial assistance from the School Building Authority Capital Fund, or pursuant to any other law
4 hereafter enacted providing for funds to municipalities for school housing purposes, is not less than
5 thirty-five percent (35%) for those expenditures which are eligible for state aid. This act shall
6 constitute an enabling act of the general assembly that is required pursuant to § 16-7-44. Any bonds,
7 notes or other evidences of indebtedness issued under this act for school projects shall not be
8 eligible for state housing aid reimbursement pursuant to § 16-7-44 unless the school projects
9 described herein have been approved by the Rhode Island Department of Education.

10 SECTION 3. The bonds shall be signed by the president of the town council, the town
11 administrator and the director of finance and shall be issued and sold in such amounts as the town
12 council may authorize. The manner of sale, denominations, maturities, interest rates and other
13 terms, conditions and details of any bonds or notes issued under this act may be fixed by the
14 proceedings of the town council authorizing the issue or by separate resolution of the town council
15 or, to the extent provisions for these matters are not so made, they may be fixed by the officers
16 authorized to sign the bonds or notes. Notwithstanding anything contained in this act to the
17 contrary, the town may enter into financing agreements with the Rhode Island Health and
18 Educational Building Corporation pursuant to chapter 7 of title 16 and chapter 38.1 of title 45 and,
19 with respect to bonds or notes issued in connection with such financing agreements, if any, the
20 town may elect to have the provisions of chapter 38.1 of title 45 apply to the issuance of the bonds
21 or notes issued hereunder to the extent the provisions of chapter 38.1 of title 45 are inconsistent
22 herewith. In addition, the town may enter into financing agreements with the Rhode Island
23 Infrastructure Bank pursuant to the provisions of chapter 12.2 of title 46 and, with respect to notes
24 or bonds issued in connection with such financing agreements, if any, the town may elect to have
25 the provisions of chapter 12.2 of title 46 apply to the issuance of the bonds or notes issued hereunder
26 to the extent the provisions of chapter 12.2 of title 46 are inconsistent herewith. Such election may
27 be fixed by the proceedings of the town council authorizing such issuance of by separate resolution
28 of the town council, or, to the extent provisions for these matters are not so made, they may be
29 fixed by the officers authorized to sign the bonds or notes. The proceeds derived from the sale of
30 the bonds shall be delivered to the director of finance, and such proceeds exclusive of premiums
31 and accrued interest shall be expended: (1) For the construction, additions, renovation,
32 improvement, alteration, repair furnishing and equipping of schools and school facilities in the
33 Town and all costs related thereto; (2) For payment of the principal or interest on temporary notes
34 issued under section 4; (3) In payment of capitalized interest on bonds or notes; (4) In repayment

1 of advances under section 5; or (5) In payment of related costs of issuance of any bonds or notes.
2 No purchaser of any bonds or notes under this act shall be in any way responsible for the proper
3 application of the proceeds derived from the sales thereof. The project shall be carried out and all
4 contracts made therefor on behalf of the town by the town administrator, subject to approval of the
5 town council. The proceeds of bonds or notes issued under this act, any applicable federal or state
6 assistance and other monies referred to in section 7 and 10, shall be deemed appropriated for the
7 purposes of this act without further action than that required by this act. The bond issue authorized
8 by this act may be consolidated for the purposes of issuance and sale with any other bond issue of
9 the town heretofore or hereafter authorized; provided that, notwithstanding any such consolidation,
10 the proceeds from the sale of the bonds authorized by this act shall be expended for the purposes
11 set forth above.

12 SECTION 4. The town council may by resolution authorize the issue from time to time of
13 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the
14 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in
15 anticipation of bonds may not exceed the amount of bonds which may be issued under this act
16 (without any reduction for any grant to be received from the School Building Authority Capital
17 Fund), and the amount of original notes issued in anticipation of federal or state aid may not exceed
18 the amount of available federal or state aid as estimated by the director of finance. Temporary
19 notes issued hereunder shall be signed by the manual or facsimile signatures of the director of
20 finance, the town administrator and the president of the town council shall be payable within five
21 (5) years from their respective dates, but the principal of and interest on notes issued for a shorter
22 period may be renewed or paid from time to time by the issue of other notes thereunder; provided
23 the period from the date of an original note to the maturity or any note issued to renew or pay the
24 same debt or the interest thereon shall not exceed five (5) years. Any temporary notes in anticipation
25 of bonds issued under this section may be refunded prior to the maturity of the notes by the issuance
26 of additional temporary notes; provided that, no such refunding shall result in any amount of such
27 temporary notes outstanding at any one time in excess of two hundred percent (200%) of the amount
28 of bonds which may be issued under this act; and provided, further that, if the issuance of any such
29 refunding notes results in any amount of such temporary notes outstanding at any one time in excess
30 of the amount of bonds which may be issued under this act, the proceeds of such refunding notes
31 shall be deposited in a separate fund established with the bank which is paying agent for the notes
32 being refunded. Pending their use to pay the notes being refunded, monies in the fund shall be
33 invested for the benefit of the town by the paying agent at the direction of the director of finance in
34 any investment permitted under section 5. The monies in the fund and any investments held as a

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

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

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

23 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder shall
24 be applied to the payment of the first interest due thereon. Any premiums arising from the sale of
25 bonds or notes hereunder and any earnings or net profit realized from the deposit or investment of
26 funds hereunder shall, in the discretion of the director of finance, be applied to the cost of preparing,
27 issuing, and marketing bonds or notes hereunder to the extent not otherwise provided, to the
28 payment of the cost of the project, to the payment of the principal of or interest on bonds or notes
29 issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and
30 marketing bonds or notes hereunder may also, in the discretion of the director of finance, be met
31 from bond or note proceeds exclusive of accrued interest or from other monies available therefor.
32 Any balance of bond or note proceeds remaining after payment of the cost of the projects and the
33 cost of preparing, issuing and marketing bonds or notes hereunder shall be applied to the payment
34 of the principal of or interest on bonds or notes issued hereunder. To the extent permitted by

1 applicable federal laws, any earnings or net profit realized from the deposit or investment of funds
2 hereunder may, upon receipt, be added to and dealt with as part of the revenues of the town from
3 property taxes. In exercising any discretion under this section, the director of finance shall be
4 governed by any instructions adopted by resolution of the town council.

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

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

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

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

34 SECTION 12. All or any portion of the authority to issue bonds and notes under this act

1 may be extinguished by resolution of the town council, without further action by the general
2 assembly seven (7) years after the effective date of this act.

3 SECTION 13. The director of finance, the town administrator and the president of the town
4 council, on behalf of the town, are hereby authorized to execute such documents or other papers as
5 either of them deem necessary or desirable to carry out the intent of this act and are also authorized
6 to take all actions and execute all documents or agreements necessary to comply with federal tax
7 and securities laws, which documents or agreements may have a term coextensive with the maturity
8 of the bonds authorized hereby, including Rule 15c2-12 of the Securities and Exchange
9 Commission (the Rule) and to execute and deliver a continuing disclosure agreement or certificate
10 in connection with the bonds or notes in the form as shall be deemed advisable by such officers in
11 order to comply with the Rule.

12 SECTION 14. The question of the approval of this act shall be submitted to the electors of
13 the town at the next general election on November 3, 2020 or at a special election (other than a
14 primary), on a date as shall be designated by the town council. The question shall be submitted in
15 substantially the following form: "Shall an Act, passed at the 2020 session of the General
16 Assembly, entitled, 'AN ACT AUTHORIZING THE TOWN OF PORTSMOUTH TO ISSUE
17 NOT TO EXCEED \$65,900,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER
18 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, ADDITIONS,
19 RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND
20 EQUIPPING OF SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN,
21 SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR
22 STATE SHARE RATIO OF NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR
23 STATE AID AND PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY
24 ANY GRANT RECEIVED FROM THE SCHOOL BUILDING AUTHORITY CAPITAL FUND'
25 be approved?" and the warning for the election shall contain the question to be submitted. From
26 the time the election is warned and until it is held, it shall be the duty of the town clerk to keep a
27 copy of the act available at his office for public inspection, but the validity of the election shall not
28 be affected by this requirement.

29 SECTION 15. This section and the foregoing section shall take effect upon the passage of
30 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
31 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 PORTSMOUTH TO ISSUE NOT TO EXCEED \$65,900,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, ADDITIONS, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, FURNISHING AND EQUIPPING OF SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, SUBJECT TO APPROVAL OF STATE HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 35% FOR EXPENDITURES ELIGIBLE FOR STATE AID AND 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 Portsmouth to issue bonds and notes in an amount
2 not exceeding \$65,900,000 to finance the construction, additions, renovation, improvement,
3 alteration, repair, furnishing and equipping of schools and school facilities throughout the town,
4 subject to approval of state housing aid at a reimbursement rate or state share ratio of not less than
5 35% for expenditures eligible for state aid and; provided, that the authorization shall be reduced by
6 any grant received from the School Building Authority Capital Fund. The town may be eligible
7 for school housing aid reimbursement on debt service pursuant to chapter 7 of title 16, or for
8 a grant, loan or other "financial assistance" as defined in § 45-38.2-1(6), from the School Building
9 Authority Capital Fund under chapter 38.2 of chapter 45. The amount of borrowing authorized
10 pursuant to this act would be reduced by the amount of any grant received by the town from
11 the School Building Authority Capital Fund. Bonds, notes or other evidences of indebtedness
12 would not be issued under this act unless the town has received a letter from the Rhode Island
13 Department of Education ("RIDE") confirming that the then-current school housing aid
14 reimbursement rate under chapter 7 of title 16, as amended from time to time, or financial assistance
15 from the School Building Authority Capital Fund, or pursuant to any other law hereafter enacted
16 providing for funds to municipalities for school housing purposes, is not less than thirty-five percent
17 (35%) of those expenditures which are eligible for state aid.

18 This act would constitute an enabling act of the general assembly that is required pursuant
19 to § 16-7-44. Any bonds, notes or other evidences of indebtedness issued under this act for school
20 projects would not be eligible for state housing aid reimbursement pursuant to § 16-7-44 unless the
21 school projects described herein have been approved by the Rhode Island Department of Education.

- 1 Sections 14 and 15 would take effect upon passage. The remainder of the act takes effect
- 2 upon approval of the question provided for in section 14.

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