

2010 -- H 8228

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LC02825
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

AUTHORIZING THE TOWN OF NORTH KINGSTOWN TO ISSUE BONDS AND NOTES TO AN AMOUNT NOT EXCEEDING \$9,200,000 TO FINANCE THE CONSTRUCTION OF SEWERS AND SEWERAGE SYSTEMS IN THE TOWN INCLUDING THE ACQUISITION OF LAND THEREFOR AND AUTHORIZING THE IMPOSITION OF SEWER ASSESSMENTS AND SERVICE FEES

Introduced By: Representatives Carter, Ehrhardt, and Lally

Date Introduced: June 03, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Additional issuance of bonds.

2 The Town of North Kingstown is hereby empowered and authorized, in addition to
3 authority previously granted pursuant to Chapters 25 and 37 of the Public Laws of 2009, to issue
4 bonds to an amount not exceeding Nine Million Two Hundred Thousand dollars (\$9,200,000)
5 from time to time under its corporate name and seal. The bonds of each issue may be issued in the
6 form of serial bonds or term bonds or a combination thereof and shall be payable either by
7 maturity of principal in the case of serial bonds or by mandatory serial redemption in the case of
8 term bonds, in annual installments of principal, the first installment to be not later than three (3)
9 years and the last installment not later than thirty (30) years after the date of the bonds. The bonds
10 shall be signed by the town director of finance and by the president of the town council and shall
11 be issued and sold in such amounts as the town council may authorize. The manner of sale,
12 denominations, maturities, principal amounts, interest rates and other terms, conditions and
13 details of any bonds or notes issued under this act may be fixed by proceedings of the town
14 council authorizing the issue or by separate resolution of the town council or, to the extent
15 provisions for these matters are not so made, they may be fixed by the officers authorized to sign
16 the bonds or notes.

17 SECTION 2. Proceeds of the bonds. -- The proceeds derived from the sale of the bonds

1 shall be delivered to the director of finance, and such proceeds, exclusive of premiums and
2 accrued interest shall be expended:

3 (A) for the construction of sewers and sewerage systems including but not limited to lift
4 stations and pumping stations and the acquisitions, by purchase or condemnation, of land and
5 interests therein necessary in connection with the construction thereof in the town of North
6 Kingstown;

7 (B) in payment of the principal or of interest on temporary notes issued under section 3;
8 or

9 (C) in repayment of advances under section 4.

10 The particular facilities to be provided in any area of the town shall be determined in
11 accordance with priorities determined by the town council. No purchaser of any bonds or notes
12 under this act shall be in any way responsible for the proper application of the proceeds derived
13 from the sale thereof. The proceeds of bonds or notes issued under this act, any applicable federal
14 or state assistance and the other moneys referred to in section 6 shall be deemed appropriated for
15 the purposes of this act without further action than that required by this act.

16 SECTION 3. Temporary notes.

17 The town council may by resolution authorize the issuance from time to time of interest-
18 bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the receipt of
19 federal or state aid for the purposes of this act. The amount of original notes issued in anticipation
20 of bonds may not exceed the amount of bonds which may be issued under this act and the amount
21 of original notes issued in anticipation of federal or state aid as estimated by the director of
22 finance. Temporary notes issued hereunder shall be signed by the director of finance and by the
23 president of the town council and shall be payable within five (5) years from their respective
24 dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid
25 from time to time by the issue of other notes hereunder; provided the period from the date of an
26 original note to the maturity of any note issued to renew or pay the same debt or the interest
27 thereon shall not exceed five (5) years.

28 SECTION 4. Advances from general fund. -- Pending any authorization or issue of bonds
29 hereunder or pending or in lieu of any authorization or issue of notes hereunder, the director of
30 finance, with the approval of the town council, may, to the extent that bonds or notes may be
31 issued hereunder, apply funds in the general fund of the town to the purposes specified in section
32 2, such advances to be repaid with interest from the proceeds of bonds or notes subsequently
33 issued or from the proceeds of applicable federal or state assistance or from other available funds.

34 SECTION 5. Investment of money.

1 Any proceeds of bonds or notes issued hereunder or of any applicable federal or state
2 assistance, pending their expenditure, may be deposited or invested by the director of finance in
3 demand deposits, time deposits or savings deposits in banks which are members of the federal
4 deposit insurance corporation or in obligations issued or guaranteed by the United States of
5 America or by any agency or instrumentality thereof or as may be provided in any other
6 applicable law of the state of Rhode Island.

7 SECTION 6. Expenditures.

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

23 SECTION 7. Security for bonds and notes.

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

34 SECTION 8. Validity of bonds or notes.

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

5 SECTION 9. Federal or state advances or grant.

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

13 SECTION 10. Conditions precedent to issuance.

14 Bonds and notes may be issued under this act without obtaining approval of any
15 governmental agency or the taking of any proceedings or the happening of any conditions except
16 as specifically required by this act for such issue. In carrying out any project financed in whole or
17 in part under this act, including where applicable the condemnation of any land or interest in land,
18 which shall be authorized hereby and carried out in the manner described by chapter 1 of title 24
19 of the general laws as it may be amended from time to time, and in the levy and collection of
20 assessments or other charges permitted by law on account of any such project, all action shall be
21 taken which is necessary to meet constitutional requirements whether or not such action is
22 otherwise required by statute, but the validity of bonds and notes issued hereunder shall in no way
23 depend upon the validity or occurrence of such action.

24 SECTION 11. Assessments.

25 (A) The town council shall cause the cost of constructing, operating and maintaining the
26 sewer system to be paid by assessments and annual charges as set forth herein. The town council
27 shall assess the costs (including financing costs and debt service on bonds or notes issued
28 hereunder) of any project or projects financed under this act which it has determined will be paid
29 from assessments, upon the owners of the estates which abut that portion of any street or highway
30 in or along which any sewer constituting any portion of such project or projects may be located or
31 which otherwise specially benefit from such project or projects. Any such property owned by the
32 state of Rhode Island shall be subject to assessments and charges under this act in the same
33 manner and to the same extent as any other such property. Such assessment may be made
34 separately for each project separately identified by the town council or for several projects taken

1 together, including those financed pursuant to Chapters 25 and 37 of the Public Laws of 2009, as
2 the town council may deem equitable.

3 (B) Such assessments shall be just and equitable and shall be based upon frontage or area
4 within a specified reasonable distance from the street or highway or other equitable method or
5 combination of methods as may be determined by the town council. The town council shall not
6 make any particular assessment in excess of the benefit conferred and may make reasonable
7 adjustments or deferments of such assessments against estates having a frontage upon more than
8 one street or against estates which for any reason are unable to derive the normal benefits from
9 the system. The town council may adopt ordinances governing the making of such assessments
10 and the collection thereof. A copy of such assessments shall be recorded with the collector of
11 taxes as a public record. From the date of delivery to the collector of taxes the assessments and
12 interest accruing thereon shall constitute a lien upon the respective estates on a parity with the
13 lien for town taxes until paid in full. The collector of taxes of the town shall have the same rights
14 to enforce such liens against the estates and to collect such assessments and interest from the
15 owners as he has in the case of town taxes.

16 SECTION 12. Sewer service charges.

17 (A) The town council may fix and revise from time to time a schedule of sewer service
18 charges for the use of sewer facilities and services furnished under this act for the purpose of
19 paying the cost of maintaining, repairing and operating such facilities, and any other expenses not
20 otherwise provided for which may arise under this act, to the extent that monies for the foregoing
21 purposes are not otherwise provided. Such charges shall be just and equitable and may be based
22 upon the quantity of water used or units assessed or the number and size of sewer connections
23 made or the number and kind of plumbing fixtures installed on the estate or upon the number or
24 average number of persons residing or working in or otherwise connected therewith or upon any
25 other factor affecting the use of or the value of the facilities and services furnished or upon any
26 combination of such factors. The town may provide by ordinance for the making and collection of
27 such sewer service charges.

28 (B) Delinquent service charges together with any interest and charges accruing thereon
29 shall constitute a lien upon real estate on a parity with the lien for town taxes. The collector of
30 taxes shall have the same rights to enforce such liens and to collect the service charges and
31 interest thereon as he has in the case of town taxes.

32 SECTION 13. Appropriation of charges and assessments.

33 The receipts from sewer service charges and assessments, including any net earning and
34 profits realized from the deposit or investment thereof, shall be deemed appropriated for the

1 purposes set forth in this act, without the necessity of any further action. Except as provided in
2 this act and in Chapters 25 and 37 of the Public Laws of 2009, the assessment and collection of
3 sewer service charges and assessments shall be governed by ordinances adopted by the town
4 council and applicable to all such charges and assessments in the town.

5 SECTION 14. Other bonds for similar purposes, instruments, documents and agreements.

6 The bond issue authorized by this act may be consolidated for the purposes of issuance
7 with any other bond issue of the town heretofore or hereafter authorized, provided that,
8 notwithstanding any such consolidation, the proceeds from the sale of the bonds authorized by
9 this act shall be expended for the purposes set forth above.

10 The assessments and charges for the issuance and debt service costs of the bonds
11 authorized by this act may be consolidated with those assessed and charged for other bond issued
12 for the town's of sewers and sewerage systems heretofore or hereafter authorized.

13 The town director of finance and the president of the town council, on behalf of the town,
14 are hereby authorized to execute such agreements, instruments, documents or other papers as
15 either of them deem necessary or desirable to carry out the intent of this act including but not
16 limited to those pursuant to chapter 24.5 of Title 45 and Chapter 12.2 of Title 46 as amended of
17 the General Laws, and are also authorized to take all actions and execute all documents or
18 agreements necessary to comply with federal tax and securities laws, which documents or
19 agreements may have a term coextensive with the maturity of the bonds authorized hereby.

20 SECTION 15. The question of the approval of this act shall be submitted to the electors
21 of the town at a general or special election which is not a primary on such date as the town
22 council shall designate. The question shall be submitted in substantially the following form:

23 "Shall an act, passed at the 2010 session of the general assembly, entitled 'An act
24 authorizing the Town of North Kingstown to issue bonds and notes to an amount not exceeding
25 \$9,200,000 to finance the construction of sewers and sewerage systems in the town including the
26 acquisition of land therefor and authorizing the imposition of sewer assessments and user fees' be
27 approved?"

28 and the warning for the election shall contain the question to be submitted. From the time the
29 election is warned and until it is held, it shall be the duty of the town clerk to keep a copy of the
30 act available at his or her office for public inspection, but the validity of the election shall not be
31 affected by this requirement.

32 SECTION 16. This section and the foregoing section shall take effect upon the passage of
33 this act. The remainder of this act shall take effect upon the approval of this act by a majority of
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1 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 NORTH KINGSTOWN TO ISSUE BONDS AND NOTES TO AN AMOUNT NOT EXCEEDING \$9,200,000 TO FINANCE THE CONSTRUCTION OF SEWERS AND SEWERAGE SYSTEMS IN THE TOWN INCLUDING THE ACQUISITION OF LAND THEREFOR AND AUTHORIZING THE IMPOSITION OF SEWER ASSESSMENTS AND SERVICE FEES

1 This act would authorize the Town of North Kingstown to issue bonds and notes to an
2 amount not exceeding \$9,200,000 to finance the construction of sewers and sewerage systems in
3 the town including the acquisition of land therefor, and would authorize the imposition of sewer
4 assessments and user fees.

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

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