

**2014 -- H 8341**

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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 TOWN OF CUMBERLAND, WITH THE APPROVAL OF THE QUALIFIED ELECTORS, TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN AN AMOUNT NOT TO EXCEED \$2,500,000 FOR THE REPAIR AND REHABILITATION OF ROAD INFRASTRUCTURE IN THE TOWN

Introduced By: Representatives MacBeth, McLaughlin, Phillips, and Ackerman

Date Introduced: June 17, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. The town of Cumberland is hereby empowered, in addition to authority  
2 previously granted, to issue general obligation bonds and notes to an amount not exceeding two  
3 million five hundred thousand dollars (\$2,500,000) from time to time under its corporate name  
4 and seal. The bonds of each issue may be issued in the form of serial bonds or term bonds or a  
5 combination thereof and shall be payable either by maturity of principal in the case of serial  
6 bonds or by mandatory serial redemption in the case of term bonds, in annual installments of  
7 principal, provided that the final maturity of such bonds shall not exceed thirty (30) years from  
8 and after the date the bonds are issued. All such bonds of a particular issue may be issued in the  
9 form of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds or a  
10 combination thereof, and may bear interest at a fixed rate or rates or at a variable or auction rate  
11 or rates. The bonds may be sold by a negotiated sale or by competitive bid and issued pursuant to  
12 a resolution or an indenture of trust. Annual installments of principal may be provided for by  
13 maturity of principal in the case of serial bonds or by mandatory serial redemption in the case of  
14 term bonds. The amount of principal appreciation each year on any bonds, after the date of  
15 original issuance, shall not be considered to be principal indebtedness for the purposes of any  
16 constitutional or statutory debt limit or any other limitation. The appreciation of principal after  
17 the date of original issue shall be considered interest. Only the original principal amount shall be

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

3 SECTION 2. The bonds shall be signed by the finance director and the mayor and shall  
4 be issued and sold in such amounts as the town council may authorize. The manner of sale,  
5 denominations, maturities, interest rates and other terms, conditions and details of any bonds or  
6 notes issued under this act may be fixed by the proceedings of the town council authorizing the  
7 issue or by separate resolution of the town council or, to the extent provisions for these matters  
8 are not so made, they may be fixed by the officers authorized to sign the bonds or notes. The  
9 proceeds derived from the sale of the bonds shall be delivered to the finance director, and such  
10 proceeds, exclusive of premiums and accrued interest, shall be expended: (1) For the purpose of  
11 financing the repair and rehabilitation of road infrastructure; (2) In payment of the principal of  
12 and/or interest on temporary notes issued under section 3; (3) In repayment of advances made  
13 pursuant to section 4; and/or (4) In payment of costs of issuance associated with the issuance of  
14 bonds or notes hereunder. No purchaser of any bonds or notes under this act shall be in any way  
15 responsible for the proper application of the proceeds derived from the sale thereof. The proceeds  
16 of bonds or notes issued under this act, any applicable federal or state assistance and the other  
17 monies referred to in sections 6 and 9, shall be deemed appropriated for the purpose of this act  
18 without further action than that required by this act. This bond issue authorized by this act may be  
19 consolidated for the purpose of issuance and sale with any other bond issue of the town heretofore  
20 or hereafter authorized, provided that, notwithstanding any such consolidation, the proceeds from  
21 the sale of the bonds authorized by this act shall be expended for the purposes set forth above.  
22 The finance director and the mayor, on behalf of the town, are hereby authorized to execute such  
23 instruments, documents or other papers as either of them deem necessary or desirable to carry out  
24 the intent of this act and are also authorized to take all actions and execute all documents or  
25 agreements necessary to comply with federal tax and securities laws, which documents or  
26 agreements may have a term coextensive with the maturity of the bonds authorized hereby,  
27 including Rule 15c2-12 of the Securities and Exchange Commission and to execute and deliver a  
28 continuing disclosure agreement or certificate in connection with the bonds or notes.

29 SECTION 3. The town council may by resolution authorize the issue from time to time of  
30 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the  
31 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in  
32 anticipation of bonds may not exceed the amount of bonds which may be issued under this act  
33 and the amount of original notes issued in anticipation of federal or state aid may not exceed the  
34 amount of available federal or state aid as estimated by the finance director. Temporary notes

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

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

32 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable  
33 federal or state assistance, pending their expenditure, may be deposited or invested by the finance  
34 director in demand deposits, time deposits or savings deposits in banks which are members of the

1 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States  
2 of America or by any agency or instrumentality thereof or as may be provided in any other  
3 applicable law of the state of Rhode Island or resolution of the town council or pursuant to an  
4 investment policy of the town.

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

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

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

34 SECTION 9. The town, acting by resolution of its town council, is authorized to apply

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

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

16 SECTION 11. The question of the approval of this act shall be submitted to the electors  
17 of the town at the general election to be held on November 4, 2014 or at a general or special  
18 election (other than a primary election) to be held on a date as shall be designated by the town  
19 council. The question shall be submitted in substantially the following form: "Shall an act, passed  
20 at the 2014 session of the general assembly, entitled 'AN ACT AUTHORIZING THE TOWN OF  
21 CUMBERLAND, WITH THE APPROVAL OF THE QUALIFIED ELECTORS, TO ISSUE  
22 GENERAL OBLIGATION BONDS AND/OR NOTES IN THE AMOUNT NOT TO EXCEED  
23 \$2,500,000 FOR THE REPAIR AND REHABILITATION OF ROAD INFRASTRUCTURE IN  
24 THE TOWN' be approved?" The warning for the election shall contain the question to be  
25 submitted. From the time the election is warned and until it is held, it shall be the duty of the  
26 town clerk to keep a copy of the act available at his or her office for public inspection, but the  
27 validity of the election shall not be affected by this requirement. To the extent of any  
28 inconsistency between this act and the town charter, this act shall prevail.

29 SECTION 12. Sections 11 and 12 shall take effect upon the passage of this act. The  
30 remainder of this act shall take effect upon the approval of this act by a majority of those voting  
31 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 CUMBERLAND, WITH THE APPROVAL OF THE QUALIFIED ELECTORS, TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN AN AMOUNT NOT TO EXCEED \$2,500,000 FOR THE REPAIR AND REHABILITATION OF ROAD INFRASTRUCTURE IN THE TOWN

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1           This act would authorize the town of Cumberland to issue up to two million five hundred  
2 thousand dollars (\$2,500,000) of general obligation bonds and notes in order to finance the repair  
3 and rehabilitation of road infrastructure.

4           Sections 11 and 12 would take effect upon passage. The remainder of the act would take  
5 effect upon approval of the act by the electors of the town of Cumberland.

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