

2018 -- S 2914

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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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 STREET PAVEMENT  
IMPROVEMENTS IN THE TOWN

Introduced By: Senators Pearson, and Picard

Date Introduced: May 17, 2018

Referred To: Senate Housing & Municipal Government

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         The town may enter into financing agreements with the Rhode Island Infrastructure Bank  
4 pursuant to the provisions of chapter 12.2 of title 46 and chapter 18 of title 24 and, with respect to  
5 notes or bonds issued in connection with such financing agreements, if any, the town may elect to  
6 have the provisions of chapter 12.2 of title 46 and chapter 18 of title 24 apply to the issuance of  
7 the bonds or notes issued hereunder to the extent the provisions of chapter 12.2 of title 46 or  
8 chapter 18 of title 24 are inconsistent herewith. Such election may be fixed by the proceedings of  
9 the town council authorizing such issuance of by separate resolution of the town council, or, to  
10 the extent provisions for these matters are not so made, they may be fixed by the officers  
11 authorized to sign the bonds or notes.

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

1 have a term coextensive with the maturity of the bonds authorized hereby, including Rule 15c2-  
2 12 of the Securities and Exchange Commission and to execute and deliver a continuing disclosure  
3 agreement or certificate in connection with the bonds or notes.

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

34 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu

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

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

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

30 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby  
31 shall be obligatory on the town 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 § 45-12-2. No such obligation shall at  
33 any time be included in the debt of the town for the purpose of ascertaining its borrowing  
34 capacity. The town shall annually appropriate a sum sufficient to pay the principal and interest

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

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

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

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

26 SECTION 11. The question of the approval of this act shall be submitted to the electors  
27 of the town at the general election to be held on November 6, 2018 or at a general or special  
28 election (other than a primary election) to be held on a date as shall be designated by the town  
29 council. The question shall be submitted in substantially the following form: "Shall an act, passed  
30 at the 2018 session of the general assembly, entitled 'AN ACT AUTHORIZING THE TOWN OF  
31 CUMBERLAND, WITH THE APPROVAL OF THE QUALIFIED ELECTORS, TO ISSUE  
32 GENERAL OBLIGATION BONDS AND/OR NOTES IN THE AMOUNT NOT TO EXCEED  
33 \$2,500,000 FOR STREET PAVEMENT IMPROVEMENTS IN THE TOWN' be approved?" The  
34 warning for the election shall contain the question to be submitted. From the time the election is

1 warned and until it is held, it shall be the duty of the town clerk to keep a copy of the act available  
2 at the clerk's office for public inspection, but the validity of the election shall not be affected by  
3 this requirement. To the extent of any inconsistency between this act and the town charter, this act  
4 shall prevail.

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

8 SECTION 13. Sections 11 and 13 shall take effect upon the passage of this act. The  
9 remainder of this act shall take effect upon the approval of this act by a majority of those voting  
10 on the question at the election prescribed by section 11.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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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 STREET PAVEMENT  
IMPROVEMENTS IN THE TOWN

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

4           Sections 11 and 13 would take effect upon the passage. The remainder of the act would  
5 take effect upon approval of the act by the electors of the town of Cumberland.

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