

# HOUSE BILL 352

B3

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By: **Washington County Delegation**

Introduced and read first time: February 1, 2007

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Washington County – Public Facilities Bonds**

3 FOR the purpose of authorizing and empowering the County Commissioners of  
4 Washington County, from time to time, to borrow not more than \$80,000,000 in  
5 order to finance the costs of the construction, improvement, or development of  
6 certain public facilities in Washington County, as herein defined, and to effect  
7 such borrowing by the issuance and sale at public or private sale of its general  
8 obligation bonds in like par amount; empowering the County to fix and  
9 determine, by resolution, the form, tenor, interest rate or rates or method of  
10 determining the same, terms, conditions, maturities, and all other details  
11 incident to the issuance and sale of the bonds; empowering the County to issue  
12 refunding bonds for the purchase or redemption of bonds in advance of maturity;  
13 empowering and directing the County to levy, impose, and collect, annually, ad  
14 valorem taxes in rate and amount sufficient to provide funds for the payment of  
15 the maturing principal of and interest on the bonds; exempting the bonds and  
16 refunding bonds, and the interest thereon and any income derived therefrom,  
17 from all State, county, municipal, and other taxation in the State of Maryland;  
18 providing that nothing in this Act shall prevent the County from authorizing the  
19 issuance and sale of bonds the interest on which is not excludable from gross  
20 income for federal income tax purposes; providing that such borrowing may be  
21 undertaken by the County in the form of installment purchase obligations  
22 executed and delivered by the County for the purpose of acquiring agricultural  
23 land, woodland preservation easements, and transferable development rights;  
24 and relating generally to the issuance and sale of such bonds.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That, as used herein, the term "County" means the body politic and  
3 corporate of the State of Maryland known as the County Commissioners of  
4 Washington County, and the term "construction, improvement, or development of  
5 public facilities" means the acquisition, alteration, construction, reconstruction,  
6 enlargement, equipping, expansion, extension, improvement, rehabilitation,  
7 renovation, upgrading, and repair of public buildings and facilities and public works  
8 projects, including, but not limited to, the following, together with related  
9 architectural, financial, legal, planning, or engineering services:

10 (a) Public school buildings, administrative facilities, sites, and grounds;

11 (b) Community College buildings, sites, and grounds;

12 (c) Buildings and facilities for public safety, health and social services,  
13 libraries, County administration purposes, County airport purposes, refuse collection,  
14 recycling or disposal by whatever means, and park and recreation purposes;

15 (d) Acquisition of land or interests in land and any improvement thereon;  
16 and

17 (e) Easements or similar or related rights in land, including transferable  
18 development rights, that restrict the use of agricultural land or woodland to maintain  
19 the character of the land as agricultural land or woodland.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby  
21 authorized to finance any part or all of the costs of the facilities described in Section 1  
22 of this Act, and to borrow money and incur indebtedness for that purpose, at one time  
23 or from time to time, in an amount not exceeding, in the aggregate, \$80,000,000 and to  
24 evidence such borrowing by the issuance and sale upon its full faith and credit of  
25 general obligation bonds in like par amount, which may be issued at one time or from  
26 time to time, in one or more groups or series, as the County may determine.

27 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued  
28 in accordance with a resolution of the County, which shall describe generally the  
29 construction, improvement, or development of public facilities for which the proceeds  
30 of the bond sale are intended and the amount needed for those purposes. The County  
31 shall have and is hereby granted full and complete authority and discretion in the  
32 resolution to fix and determine with respect to the bonds of any issue: the designation,  
33 date of issue, denomination or denominations, form or forms, and tenor of the bonds  
34 which, without limitation, may be issued in registered form within the meaning of  
35 Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or  
36 rates of interest payable thereon, or the method of determining the same, which may

1 include a variable rate; the date or dates and amount or amounts of maturity, which  
2 need not be in equal par amounts or in consecutive annual installments, provided only  
3 that no bond of any issue shall mature later than 30 years from the date of its issue;  
4 the manner of selling the bonds, which may be at either public or private sale, for such  
5 price or prices as may be determined to be for the best interests of the County; the  
6 manner of executing and sealing the bonds, which may be by facsimile; the terms and  
7 conditions, if any, under which bonds may be tendered for payment or purchase prior  
8 to their stated maturity; the terms or conditions, if any, under which bonds may or  
9 shall be redeemed prior to their stated maturity; the place or places of payment of the  
10 principal of and the interest on the bonds, which may be at any bank or trust company  
11 within or without the State of Maryland; covenants relating to compliance with  
12 applicable requirements of federal income tax law, including (without limitation)  
13 covenants regarding the payment of rebate or penalties in lieu of rebate; covenants  
14 relating to compliance with applicable requirements of federal or state securities laws;  
15 and generally all matters incident to the terms, conditions, issuance, sale, and delivery  
16 thereof.

17         The bonds may be made redeemable before maturity, at the option of the  
18 County, at such price or prices and under such terms and conditions as may be fixed  
19 by the County prior to the issuance of the bonds, either in the resolution or in  
20 subsequent resolutions. In case any officer whose signature appears on any bond  
21 ceases to be such officer before the delivery thereof, such signature shall nevertheless  
22 be valid and sufficient for all purposes as if he had remained in office until such  
23 delivery. The bonds and the issuance and sale thereof shall be exempt from the  
24 provisions of Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of  
25 Maryland. The County may enter into agreements with agents, banks, fiduciaries,  
26 insurers, or others for the purpose of enhancing the marketability of any security for  
27 the bonds and for the purpose of securing any tender option that may be granted to  
28 holders of the bonds, all as may be determined and presented in the aforesaid  
29 resolution, which may (but need not) state as security for the performance by the  
30 County of any monetary obligations under such agreements the same security given by  
31 the County to bondholders for the performance by the County of its monetary  
32 obligations under the bonds. If the County determines in the resolution to offer any of  
33 the bonds by solicitation of competitive bids at public sale, the resolution shall fix the  
34 terms and conditions of the public sale and shall adopt a form of notice of sale, which  
35 shall outline the terms and conditions, including the manner of receipt of bids, and a  
36 form of advertisement, which shall be published in one or more daily or weekly  
37 newspapers having a general circulation in Washington County and which may also be  
38 published in one or more journals having a circulation primarily among banks and  
39 investment bankers. At least one publication of the advertisement shall be made not  
40 less than 10 days before the sale of the bonds.

1           Upon delivery of any bonds to the purchaser or purchasers, payment therefor  
2 shall be made to the Treasurer of Washington County or such other official of the  
3 County as may be designated to receive such payment in a resolution passed by the  
4 County Commissioners of Washington County before such delivery. For purposes of  
5 issuance and sale, bonds, authorized hereunder may be consolidated into a single issue  
6 with any other bonds authorized to be issued by the County.

7           SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the  
8 sale of bonds shall be used and applied exclusively and solely for the acquisition,  
9 construction, improvement, or development of public facilities for which the bonds are  
10 sold. If the amounts borrowed shall prove inadequate to finance the projects described  
11 in the resolution, the County may issue additional bonds within the limitations hereof  
12 for the purpose of evidencing the borrowing of additional funds for such financing,  
13 provided the resolution authorizing the sale of additional bonds shall so recite, but if  
14 the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance  
15 the projects described in the resolution, the excess funds so borrowed and not  
16 expended shall be applied to the payment of the next principal maturity of the bonds  
17 or to the redemption of any part of the bonds which have been made redeemable or to  
18 the purchase and cancellation of bonds, unless the County shall adopt a resolution  
19 allocating the excess funds to the acquisition, construction, improvement, or  
20 development of other public facilities, as defined and within the limits set forth in this  
21 Act.

22           SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby  
23 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full  
24 faith and credit and unlimited taxing power of the County to the payment of the  
25 maturing principal of and interest on the bonds as and when they become payable. In  
26 each and every fiscal year that any of the bonds are outstanding, the County shall levy  
27 or cause to be levied ad valorem taxes upon all the assessable property within the  
28 corporate limits of Washington County in rate and amount sufficient to provide for or  
29 assure the payment, when due, of the principal of and interest on all the bonds  
30 maturing in each such fiscal year and, in the event the proceeds from the taxes so  
31 levied in any such fiscal year shall prove inadequate for such payment, additional  
32 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The  
33 County may apply to the payment of the principal of and interest on any bonds issued  
34 hereunder any funds received by it from the State of Maryland, the United States of  
35 America, any agency or instrumentality thereof, or from any other source, if such  
36 funds are granted for the purpose of assisting the County in financing the acquisition,  
37 construction, improvement, or development of the public facilities defined in this Act  
38 and, to the extent of any such funds received or receivable in any fiscal year, the taxes  
39 that are required to be levied may be reduced accordingly.

1 SECTION 6. AND BE IT FURTHER ENACTED, That the County is further  
2 authorized and empowered, at any time and from time to time, to issue its bonds in  
3 the manner hereinabove described for the purpose of refunding, by payment at  
4 maturity or upon purchase or redemption, any bonds issued hereunder. The validity of  
5 any such refunding bonds shall in no way be dependent upon or related to the validity  
6 or invalidity of the obligations so refunded. The powers herein granted with respect to  
7 the issuance of bonds shall be applicable to the issuance of refunding bonds. Such  
8 refunding bonds may be issued by the County for the purpose of providing it with  
9 funds to pay any of its outstanding bonds issued hereunder at maturity, for the  
10 purpose of providing it with funds to purchase in the open market any of its  
11 outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose  
12 of providing it with funds for the redemption prior to maturity of any outstanding  
13 bonds issued hereunder which are, by their terms, redeemable, for the purpose of  
14 providing it with funds to pay interest on any outstanding bonds issued hereunder  
15 prior to their payment at maturity of purchase or redemption in advance of maturity,  
16 or for the purpose of providing it with funds to pay any redemption or purchase  
17 premium in connection with the refunding of any of its outstanding bonds issued  
18 hereunder. The proceeds of the sale of any such refunding bonds shall be segregated  
19 and set apart by the County as a separate trust fund to be used solely for the purpose  
20 of paying the purchase or redemption prices of the bonds to be refunded.

21 SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to  
22 the preparation of definitive bonds, issue interim certificates or temporary bonds, with  
23 or without coupons, exchangeable for definitive bonds when such bonds have been  
24 executed and are available for such delivery, provided, however, that any such interim  
25 certificates or temporary bonds shall be issued in all respects subject to the  
26 restrictions and requirements set forth in this Act. The County may, by appropriate  
27 resolution, provide for the replacement of any bonds issued hereunder which shall  
28 have become mutilated or lost or destroyed upon such conditions and after receiving  
29 such indemnity as the County may require.

30 SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations  
31 issued pursuant to the authority of this Act, their transfer, the interest payable  
32 thereon, and any income derived therefrom in the hands of the holders thereof from  
33 time to time (including any profit made in the sale thereof) shall be and are hereby  
34 declared to be at all times exempt from State, county, municipal, or other taxation of  
35 every kind and nature whatsoever within the State of Maryland.

36 Nothing in this Act shall prevent the County from authorizing the issuance and  
37 sale of bonds the interest on which is not excludable from gross income for federal  
38 income tax purposes.

1 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow  
2 money and issue bonds conferred on the County by this Act shall be deemed to provide  
3 an additional and alternative authority for borrowing money and shall be regarded as  
4 supplemental and additional to powers conferred upon the County by other laws and  
5 shall not be regarded as in derogation of any power now existing; and all Acts of the  
6 General Assembly of Maryland heretofore passed authorizing the County to borrow  
7 money are hereby continued to the extent that the powers contained in such Acts have  
8 not been exercised, and nothing contained in this Act may be construed to impair, in  
9 any way, the validity of any bonds that may have been issued by the County under the  
10 authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed,  
11 and approved. This Act, being necessary for the welfare of the inhabitants of  
12 Washington County, shall be liberally construed to effect the purposes hereof. All Acts  
13 and parts of Acts inconsistent with the provisions of this Act are hereby repealed to  
14 the extent of such inconsistency.

15 SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing  
16 authorized by this Act may also be undertaken by the County in the form of  
17 installment purchase obligations executed and delivered by the County for the purpose  
18 of acquiring easements or similar or related rights in land, including transferable  
19 development rights, that restrict the use of agricultural land or woodland to maintain  
20 the character of the land as agricultural land or woodland. The form of installment  
21 purchase obligations, the manner of accomplishing the acquisition of easements, which  
22 may be by the direct exchange of installment purchase obligations for easements or  
23 transferable development rights, and all matters incident to the execution and  
24 delivery of the installment purchase obligations and acquisition of the easements or  
25 transferable development rights by the County shall be determined in the resolution.  
26 Except where the provisions of this Act would be inapplicable to installment purchase  
27 obligations, the term "bonds" used in this Act shall include installment purchase  
28 obligations and matters pertaining to the bonds under this Act, such as the security  
29 for the payment of the bonds, the exemption of the bonds from State, county,  
30 municipal, or other taxation, and authorization to issue refunding bonds and the  
31 limitation on the aggregate principal amount of bonds authorized for issuance, shall be  
32 applicable to installment purchase obligations.

33 SECTION 11. AND BE IT FURTHER ENACTED, That the Washington County  
34 Commissioners shall present a plan to implement a County land preservation and  
35 landowner equity program to the members of the General Assembly representing  
36 Washington County on or before January 1, 2008. The plan shall establish annual  
37 goals for financial support and acres of land preserved.

38 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take  
39 effect June 1, 2007.