

Chapter 685

(House Bill 896)

AN ACT concerning

The Washington Suburban Sanitary ~~Commission~~ District Transparency and Rate Relief Act of 2012

PG/MC 107-12

FOR the purpose of ~~altering the terms of Washington Suburban Sanitary District bonds and refunding bonds that may be issued by the Washington Suburban Sanitary Commission to decrease the number of years that a bond may mature from the date of issuance; requiring the Commission to reduce a certain sum owed for the extinguishment or redemption of a front foot benefit charge by a certain amount under certain circumstances; requiring, beginning on a certain date, certain information regarding the number of payments of a front foot benefit charge to be printed on property tax bills in Prince George's County; prohibiting the Commission from assessing a benefit charge against certain real property for longer than a certain number of years under certain circumstances; prohibiting the Commission from recalculating or increasing any benefit charge assessed against property because of a reduction of the revenues collected by the Commission as a result of this Act; prohibiting the Commission from assessing a benefit charge for longer than a certain number of years against any new residential real property constructed in Prince George's County or Montgomery County on or after a certain date; requiring the Commission to use money in a certain bond fund to offset any reduction in revenues collected by the Commission as a result of this Act; providing that a property owner against whose property a benefit charge has been assessed by the Commission for a certain number of immediately preceding years shall be deemed as having paid the benefit charges in full; prohibiting the Commission from assessing a front foot benefit charge against certain property during a certain fiscal year; prohibiting the Commission from raising a certain service rate for water or sewer usage by more than a certain amount in a certain fiscal year; establishing a Task Force to Study the Effect of Changes to Rates and Charges of in the Washington Suburban Sanitary ~~Commission~~ District; establishing the membership and staffing of the Task Force; providing for the election of the chair of the Task Force; providing that the members of the Task Force may not receive certain compensation but are entitled to certain reimbursement; requiring the Washington Suburban Sanitary Commission to provide certain records and documents to the Task Force; specifying the duties of the Task Force; requiring the Task Force to report certain findings and recommendations to the Governor and the Montgomery County and Prince George's County delegations to the General Assembly on or before a certain date; providing for~~

the termination of a certain provision of this Act; and generally relating to water and sewer usage service rates ~~of and bonds issued~~ and benefit charges assessed ~~and collected by~~ in the Washington Suburban Sanitary ~~Commission~~ District.

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section ~~22-102, 22-114, 25-211, and 25-214~~
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

~~BY adding to~~
~~Article – Public Utilities~~
~~Section 25-215~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2011 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

~~22-102.~~

~~(a) The Commission may issue bonds of the sanitary district in amounts necessary to carry on its work, including for:~~

~~(1) acquisition, design, construction, reconstruction, establishment, extension, enlargement, or condemnation of the water and sewer systems in the sanitary district or in an area where extension of the systems may be authorized by law;~~

~~(2) acquisition of land or equipment for, or construction, remodeling, enlargement, or replacement of any office or operating building necessary to administer or operate the systems; or~~

~~(3) design and construction of trunk sewers and sewers or portions of sewer lines required to relieve septic tank failures and for which no front foot benefit charges can be collected as determined by the Commission, and sewage pumping stations and sewage disposal facilities, including reimbursement to the District of Columbia or other federal authorities for any construction within the District of Columbia.~~

~~(b) (1) The Commission may issue bonds of the sanitary district for the acquisition of capital equipment in amounts necessary to carry on its work, including:~~

- ~~(i) computer equipment;~~
- ~~(ii) laboratory equipment;~~
- ~~(iii) maintenance field and yard equipment;~~
- ~~(iv) office equipment;~~
- ~~(v) telecommunication equipment; and~~
- ~~(vi) trucks and fleet vehicles.~~

~~(2) The bonds may be issued only to finance the acquisition of equipment:~~

- ~~(i) with a useful life of 4 to 7 years;~~
- ~~(ii) that the Commission expects to finance over a period of 4 years or less; and~~
- ~~(iii) for which the Commission budgets accordingly.~~

~~(3) The principal of the bonds issued under this subsection shall be payable annually beginning not more than 1 year after the date of issue.~~

~~(4) The bonds issued under this subsection shall mature not more than 4 years after the date of issue.~~

~~(5) The aggregate amount of bonds issued under this subsection outstanding at any time may not exceed \$15,000,000, subject to annual upward adjustment in accordance with the Consumer Price Index — All Urban Consumers (CPI-U), for the Washington, DC MD VA metropolitan area, over the base year 1997.~~

~~(e) Except as otherwise provided in this section, bonds issued under this section shall be issued as serial bonds with the principal payable annually, beginning no later than 3 years from the date of issue.~~

- ~~(d) (1) The bonds shall:~~
 - ~~(i) be issued in denominations determined by the Commission;~~
 - ~~(ii) bear interest annually at rates the Commission determines to be advantageous to the sanitary district and in the public interest; and~~
 - ~~(iii) mature no later than [40] 23 years from the date of issue.~~

~~(2) The bonds may be:~~

~~(i) registered or coupon bonds; or~~

~~(ii) registrable as to principal with interest represented by coupons.~~

~~(3) The interest on the bonds shall be payable semiannually.~~

~~(e) (1) Notwithstanding any other provision of law, the Commission may issue bonds that have a maturity of more than 1 year as fully registered bonds without coupons.~~

~~(2) The Commission may determine the form of the bonds issued under paragraph (1) of this subsection for the purposes of:~~

~~(i) qualifying the interest on the bonds for exemption from federal income tax; and~~

~~(ii) conforming to standards and practices for the registration and transfer of bonds generally followed by banks and trust companies acting as registrars and transfer agents of bonds, including:~~

~~1. signing of bonds by facsimile signatures of Commission officers;~~

~~2. authentication of bonds by the manual signature of an officer of a bank or trust company signing as the registrar or transfer agent;~~

~~3. maintenance by registrars or transfer agents of records of owners of bonds;~~

~~4. complying with the standard record date system for payment of interest;~~

~~5. issuing bonds on the basis of book entries and certificates; and~~

~~6. complying with requirements for the form of bond that is acceptable to central depositories used in the marketing and trading of municipal bond issues.~~

~~(f) The bonds of the sanitary district or of the Commission are forever exempt from taxation by the State and counties and municipalities in the State.~~

~~(g) The bonds may be made redeemable before maturity at the option of the Commission at the prices and under terms and conditions that the Commission sets before the bonds are issued.~~

~~22-114.~~

~~(a) The Commission may borrow money and issue refunding bonds to refund bonds issued and outstanding by the Commission if:~~

~~(1) the county executives and county councils of Montgomery County and Prince George's County approve the plan for the issuance of refunding bonds; and~~

~~(2) the Commission determines that issuing refunding bonds will result in total savings in debt service costs, directly or through any debt restructuring.~~

~~(b) The Commission shall authorize the issuance of refunding bonds by resolution that may include:~~

~~(1) the date of the refunding bonds;~~

~~(2) the maturity dates of the refunding bonds, which may not exceed [40] 23 years from the date of issue;~~

~~(3) the interest rates on the refunding bonds, which may not exceed 10% annually;~~

~~(4) the denominations of the refunding bonds;~~

~~(5) the form of the refunding bonds, which may be coupon or registered;~~

~~(6) registration or conversion privileges;~~

~~(7) the manner of executing the refunding bonds;~~

~~(8) the manner of payment at places in or outside of the State;~~

~~(9) terms for redemption before maturity;~~

~~(10) terms for replacement of mutilated, destroyed, stolen, or lost bonds; and~~

~~(11) any other terms, conditions, or covenants.~~

~~(e) Refunding bonds issued to refund outstanding bonds for which front foot benefit charges have been imposed shall mature on or before 1 year after the date set for the payment of the final installment of the front foot benefit charge.~~

~~(d) (1) Refunding bonds may be:~~

~~(i) exchanged for bonds being refunded;~~

~~(ii) sold at public sale; or~~

~~(iii) subject to paragraph (2) of this subsection, sold at a negotiated sale in an open meeting.~~

~~(2) Refunding bonds may be sold at a negotiated sale if the Commission determines:~~

~~(i) that a public sale would be impracticable to effectuate the purpose of the refunding bonds; and~~

~~(ii) the price, terms, and conditions are in the best interest of the Commission.~~

~~(e) (1) At least 45 days before the sale or exchange of any refunding bonds, the Commission shall deliver its plan on the issuance of the refunding bonds to the county executives and county councils of Montgomery County and Prince George's County.~~

~~(2) Except as provided in paragraph (3) of this subsection, the Commission may not sell or exchange the refunding bonds unless the plan under paragraph (1) of this subsection is approved by the county executives and county councils of Montgomery County and Prince George's County.~~

~~(3) (i) On or before 30 days after the delivery of the plan, the county executives and county councils of Montgomery County and Prince George's County shall approve or disapprove of the plan.~~

~~(ii) Failure of a county executive or county council of Montgomery County or Prince George's County to act within 30 days is deemed as approval of the plan by that county.~~

~~(4) The county executives and county councils of Montgomery County and Prince George's County may waive the time period requirements under this subsection.~~

~~(f) If an officer whose signature or facsimile signature appears on a refunding bond or coupon ceases to be an officer before the delivery of the refunding~~

~~bond, the signature or facsimile is valid and sufficient as if the officer remained in office until delivery.~~

~~(g) Refunding bonds issued to refund bonds guaranteed as to payment of principal and interest by Montgomery County or Prince George's County may be guaranteed in the same manner and form as under § 22-104 of this subtitle.~~

~~(h) Refunding bonds authorized under this section are:~~

~~(1) in addition to any other bonds authorized under this subtitle; and~~

~~(2) included in computing the amount of bonds that may be issued under the 7% limitation under § 22-103 of this subtitle.~~

~~(i) Refunding bonds authorized under this section are forever exempt from taxation by the State and counties and municipalities in the State.~~

~~(j) The powers granted under this section are not subject to the provisions of any other law in conflict with the powers.~~

~~25-211.~~

~~(a) (1) For purposes of this section, the annual benefit charge for a property shall be calculated at a sum:~~

~~(i) equal to the base rate applied to the classification for the property as it is used, disregarding any allowance for excess; but~~

~~(ii) not less than the base rate applied to property in the residential subdivision classification.~~

~~(2) At any time, a benefit charge may be extinguished or redeemed by payment to the Commission of a sum equal to:~~

~~(i) the annual benefit charge multiplied by the number of years yet to run on the bonds that financed the construction of the water main or sewer on which the benefit charge was based; and~~

~~(ii) less the interest calculated at the rate of interest on the bonds that financed the construction of the water main or sewer on which the benefit charge is based.~~

~~(b) Notwithstanding subsection (a) of this section, if a benefit charge is paid and redeemed because the property is acquired by the State, a county, or other governmental unit under any law that requires redemption, the payment to the Commission:~~

~~(1) shall be the capitalized amount of the actual benefit charge; but~~

~~(2) may not be less than an amount calculated as if the property were in the small acreage classification, with the redemption amount calculated as provided in this section.~~

~~(e) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, WHEN A FRONT FOOT BENEFIT CHARGE IS EXTINGUISHED OR REDEEMED THE COMMISSION SHALL REDUCE THE SUM OWED FOR THE EXTINGUISHMENT OR REDEMPTION OF THE FRONT FOOT BENEFIT CHARGE BY AN AMOUNT EQUAL TO 3%.~~

~~(D) (1) On receiving a sum from the extinguishment or redemption of one or more front foot benefit charges, the Commission:~~

~~(i) shall purchase and cancel one or more bonds from the series of bonds issued for the construction that was the basis of the front foot benefit charge; or~~

~~(ii) may invest or use the sum to:~~

~~1. construct other water mains and sewers for which benefit charges are imposed; or~~

~~2. amortize bonds issued for the construction of water mains and sewers for which front foot benefit charges are imposed under this subtitle.~~

~~(2) The Commission may make up a deficiency in the purchase of a bond or pay a premium from any available surplus funds.~~

~~(3) The extinguishment or redemption of a benefit charge is conditional until the last year of maturity of the bonds from which proceeds the water mains or sewers were constructed.~~

~~(4) If, after extinguishment or redemption, the use of the property changes to another classification that would yield a greater benefit charge than that used to calculate the sum to extinguish or redeem the benefit charge, the Commission may:~~

~~(i) reclassify the property;~~

~~(ii) calculate a benefit charge to give credit for the sum paid for the extinguishment or redemption; and~~

~~(iii) reimpose the benefit charge for the remaining number of years until the bonds mature.~~

25-214.

(a) This section applies to the collection of benefit charges for the Commission by the directors of finance of Prince George's County and Montgomery County or by other tax collecting authorities in those counties.

(b) Each year, for 30 days before the collection of taxes begins in Montgomery County and Prince George's County, the Commission shall have access to the records of the treasury division in each county's department or office of finance to inform each county:

(1) regarding which properties or property owners are subject to a benefit charge and the annual benefit charge imposed on the property;

(2) regarding each property on which the Commission has imposed a benefit charge that was not subject to State or county taxes; and

(3) of the total benefit charge imposed for all properties in the county.

(c) (1) (i) All laws relating to the collection of county taxes apply to the collection of a benefit charge.

(ii) A benefit charge:

1. for purposes of collection, shall be treated as a county tax;

2. shall bear the same interest and penalties as a county tax; and

3. shall be advertised with, and in the same manner as, a county tax.

(2) The director of finance shall collect a benefit charge in accordance with this section.

(3) The director of finance:

(i) shall refer a protest, objection, or complaint concerning a benefit charge to the Commission; and

(ii) may not refund, change, or amend a benefit charge.

(4) A property redeemed from a county tax sale or a property sold by the county council of Montgomery County or Prince George's County after a final tax sale may not be redeemed or sold except on payment of the benefit charge due on the property.

(5) A property subject to a delinquent benefit charge shall be sold for the delinquent benefit charge at the same time and in the same manner as property sold for delinquent county taxes.

(d) (1) The director of finance shall:

(i) print on the tax bill:

“To Sanitary Commission benefit charge \$....”;

(ii) provide a space on the tax bill for the interest or penalty;

(iii) make the proper entries on each tax bill mailed; and

(iv) collect the amount specified on the bill for the benefit charge with the State and county taxes.

(2) In Montgomery County, each property tax bill shall list separately any deferred water main or sewer connection benefit charges applicable to an assessed property.

(3) ~~IN~~ BEGINNING JUNE 1, 2013, IN PRINCE GEORGE'S COUNTY, EACH PROPERTY TAX BILL SHALL CONTAIN A NOTICE OF THE NUMBER OF ANNUAL PAYMENTS REMAINING ON THE ASSESSED PROPERTY FOR THE FRONT FOOT BENEFIT CHARGE.

(e) (1) On or before the 10th day of each month, the director of finance shall pay the Commission the amount of the benefit charges collected by the director of finance through the last day of the preceding month.

(2) If the director of finance does not pay the amount due the Commission as provided in paragraph (1) of this subsection, the amount due shall bear a penalty of 1% per month.

(3) The director of finance is personally liable for failure to pay the amount due to the Commission.

(4) The county councils of Montgomery County and Prince George's County shall require the bonds of its respective director of finance to be conditioned on payment to the Commission of the amount collected under this section.

(f) (1) By December 1 of each year, the Commission shall pay Montgomery County and Prince George's County a reasonable amount for the services of its respective director of finance.

(2) The payment provided for in paragraph (1) of this subsection shall be included as an item in the Commission's operating budget.

~~25-215.~~

~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW:~~

~~(1) FOR A PROPERTY AGAINST WHICH A FRONT FOOT BENEFIT CHARGE THAT WAS ASSESSED BEFORE JUNE 1, 2012, IF THE CHARGE HAS BEEN ASSESSED FOR LESS THAN 23 YEARS, THE COMMISSION MAY NOT ASSESS THAT BENEFIT CHARGE FOR LONGER THAN 23 YEARS FROM THE YEAR THAT THE BENEFIT CHARGE WAS INITIALLY ASSESSED AGAINST THE PROPERTY;~~

~~(2) THE COMMISSION MAY NOT RECALCULATE OR INCREASE A FRONT FOOT BENEFIT CHARGE BECAUSE OF A REDUCTION IN REVENUES COLLECTED BY THE COMMISSION AS A RESULT OF THIS SECTION;~~

~~(3) FOR RESIDENTIAL REAL PROPERTY CONSTRUCTED IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ON OR AFTER JUNE 1, 2012, A FRONT FOOT BENEFIT CHARGE MAY NOT BE ASSESSED BY THE COMMISSION AGAINST THE PROPERTY FOR MORE THAN 23 YEARS; AND~~

~~(4) THE COMMISSION SHALL USE THE MONEY IN THE CURRENT BOND FUND UNDER § 22-107 OF THIS DIVISION II TO OFFSET ANY REDUCTION IN REVENUES COLLECTED BY THE COMMISSION AS A RESULT OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, ~~notwithstanding any other provision of law, on or before June 1, 2012, for a property owner against whose property a front foot benefit charge has been assessed by the Washington Suburban Sanitary Commission for the immediately preceding 23 years, the front foot benefit charge shall be deemed as having been paid in full. The Commission shall promptly take the necessary steps to implement this section:~~

(a) There is a Task Force to Study Rates and Charges in the Washington Suburban Sanitary District.

(b) The Task Force consists of the following members:

(1) one member from the delegation to the Senate of Maryland from Montgomery County, selected by the chair of the delegation;

(2) one member from the delegation to the Senate of Maryland from Prince George's County, selected by the chair of the delegation;

(3) one member from the delegation to the House of Delegates from Montgomery County, appointed by the chair of the delegation;

(4) one member from the delegation to the House of Delegates from Prince George's County, appointed by the chair of the delegation;

(5) one member who has experience in finance designated by the County Executive of Montgomery County;

(6) one member who has experience in finance designated by the County Executive of Prince George's County;

(7) one member who has experience in finance designated by the Montgomery County Council;

(8) one member who has experience in finance designated by the Prince George's County Council;

(9) the chair of the Washington Suburban Sanitary Commission, or the chair's designee; and

(10) the following members appointed by the Governor:

(i) one representative of the Maryland–National Capital Building Industry Association;

(ii) one representative of a land developer in the Washington Suburban Sanitary District in Prince George's County; and

(iii) one representative of a land developer in the Washington Suburban Sanitary District in Montgomery County.

(c) The Task Force shall elect one of its members as chair of the Task Force.

(d) The Washington Suburban Sanitary Commission shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Washington Suburban Sanitary Commission shall provide any information and documents to the Task Force that the Task Force requires to carry out the duties of the Task Force under subsection (g) of this section.

(g) The Task Force shall:

(1) determine if there are water and sewer public utilities in other states that have a cap on the percentage that the public utility may increase water and sewer usage rates in a single year;

(2) complete a comparison of the water and sewer usage rates and rate increases charged by the Washington Suburban Sanitary Commission with the rates charged by water and sewer public utilities in other states;

(3) determine what the effect on the Washington Suburban Sanitary Commission would be if the General Assembly:

(i) implemented a cap on the percentage that the Washington Suburban Sanitary Commission may increase water and sewer usage rates in a single year; and

(ii) required the Washington Suburban Sanitary Commission to give a prepayment discount to a customer who extinguished or redeemed a front foot benefit charge before the final payment was due;

(4) study the process developers follow in charging property owners for the cost of constructing water and sewer facilities and connecting the property to the water and sewer facilities; and

(5) make recommendations regarding:

(i) standards for developers to follow when charging property owners for the cost of constructing water and sewer facilities and connecting property to the water and sewer facilities; and

(ii) improving the transparency of the practice of developers charging property owners for the cost of constructing water and sewer facilities and connecting the property to the water and sewer facilities.

(h) On or before December 31, 2012, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Montgomery County and Prince George's County delegations to the General Assembly.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, the Washington Suburban Sanitary Commission may not assess a front foot benefit charge against any property during the 2013 fiscal year. The Commission may not recalculate or increase a front foot benefit charge because of a reduction in revenues collected by the Commission as a result of this section.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding any other law, the Washington Suburban Sanitary Commission may not raise the service rate for water or sewer usage by more than 5% for fiscal year 2013.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of May 31, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.