

SENATE BILL 751

F3

5l2657
CF 5l2356

By: **Washington County Senators**

Introduced and read first time: February 16, 2015

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Washington County – Board of Education – Financing Authority**

3 FOR the purpose of authorizing the Washington County Board of Education to seek private
4 financing, not to exceed a certain amount, to finance certain projects or capital
5 leases; requiring certain financing to be authorized by a certain resolution and
6 secured by a certain document between certain parties; requiring a resolution to
7 contain certain information; authorizing the resolution to contain certain
8 information; authorizing certain provisions under which private financing may be
9 issued; requiring the Board to establish trust funds for a certain purpose; authorizing
10 the Board to maintain certain accounts and retain certain income; requiring certain
11 financing to make a certain statement on its face; providing that certain financing
12 does not constitute a certain debt; establishing the security of the financing; allowing
13 certain expenses to be considered as the cost of operations of the Board; providing
14 that the certain cost of a project includes certain expenses; defining certain terms;
15 and generally relating to the financing authority of the Washington County Board of
16 Education.

17 BY adding to

18 Article – Education

19 Section 4–501 and 4–502 to be under the new subtitle “Subtitle 5. Washington
20 County”

21 Annotated Code of Maryland

22 (2014 Replacement Volume and 2014 Supplement)

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

25 **Article – Education**

26 **SUBTITLE 5. WASHINGTON COUNTY.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4-501.

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "BOARD" MEANS THE WASHINGTON COUNTY BOARD OF EDUCATION.

5 (C) "PROJECT" MEANS THE ACQUISITION, CONSTRUCTION,
6 RECONSTRUCTION, EQUIPPING, MAINTENANCE, REPAIR, OR RENOVATION OF ANY
7 PUBLIC SCHOOL FACILITY.

8 (D) "PUBLIC SCHOOL FACILITY" MEANS A BUILDING, PARKING FACILITY,
9 ATHLETIC FACILITY, TESTING FACILITY, OR OTHER FACILITY IN WASHINGTON
10 COUNTY NOW EXISTING OR HEREAFTER ACQUIRED OR CONSTRUCTED THAT IS USED
11 BY THE BOARD IN RELATION TO THE EDUCATION OF STUDENTS IN WASHINGTON
12 COUNTY.

13 4-502.

14 (A) THE BOARD OF EDUCATION OF WASHINGTON COUNTY MAY SEEK
15 PRIVATE FINANCING FOR THE PURPOSE OF FINANCING OR REFINANCING ALL OR
16 ANY PART OF THE COSTS OF ANY PROJECT OR CAPITAL LEASE FOR EQUIPMENT.

17
18 (B) THE AGGREGATE PRINCIPAL AMOUNT OF PRIVATE FINANCING
19 OUTSTANDING MAY NOT EXCEED, AS OF THE DATE THE PRIVATE FINANCING IS
20 SECURED, \$10,000,000.

21 (C) PRIVATE FINANCING SHALL BE AUTHORIZED BY A RESOLUTION OF THE
22 BOARD AND MAY BE SECURED BY A FINANCIAL INSTRUMENT BY AND BETWEEN THE
23 BOARD AND A LENDER.

24 (D) THE RESOLUTION OF THE BOARD AUTHORIZING THE PRIVATE
25 FINANCING SHALL:

26 (1) DESCRIBE THE PROJECTS THAT ARE TO BE FINANCED OR
27 REFINANCED;

28
29 (2) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE PRIVATE
30 FINANCING;

31
32 (3) DESCRIBE THE SOURCES OF PAYMENT OF THE PRIVATE
33 FINANCING; AND

1 **(4) PROVIDE THAT THE PROCEEDS OF THE PRIVATE FINANCING**
2 **SHALL BE INVESTED IN ACCORDANCE WITH ANY INVESTMENT POLICY APPROVED BY**
3 **THE BOARD.**

4 **(E) THE RESOLUTION OF THE BOARD OR FINANCIAL INSTRUMENT MAY**
5 **CONTAIN PROVISIONS THAT:**

6 **(1) LIMIT THE PURPOSE TO WHICH THE PROCEEDS OF THE PRIVATE**
7 **FINANCING MAY BE APPLIED AND RESTRICT THE INVESTMENT OF THE PROCEEDS IN**
8 **GOVERNMENT OBLIGATIONS FOR WHICH PRINCIPAL AND INTEREST ARE**
9 **UNCONDITIONALLY GUARANTEED BY THE UNITED STATES OF AMERICA;**

10 **(2) PROVIDE FOR SECURED PRIVATE FINANCING TO FINANCE OR**
11 **REFINANCE ANY PROJECTS, WHICH MAY NOT EXCEED THE TOTAL VALUE OF THE**
12 **OUTSTANDING PRIVATE FINANCING ALLOWED UNDER SUBSECTION (B) OF THIS**
13 **SECTION;**

14 **(3) ASSIGN ALL OR ANY PART OF THE FUNDS OR ASSETS OF THE**
15 **BOARD; AND**

16 **(4) RELATE TO THE RIGHTS AND REMEDIES OF THE PRIVATE**
17 **FINANCE LENDER THAT ARE REASONABLE AND PROPER AND NOT IN VIOLATION OF**
18 **THE LAW, INCLUDING COVENANTS THAT MAY INCLUDE:**

19 **(I) THE DUTIES OF THE BOARD IN RELATION TO THE PROJECT;**

20 **(II) THE DUTIES OF THE BOARD IN RELATION TO THE FUNDS OF**
21 **THE BOARD;**

22 **(III) THE CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL**
23 **MONEY; AND**

24 **(IV) THE RIGHTS AND REMEDIES OF THE LENDER.**

25 **(F) PRIVATE FINANCING MAY BE ISSUED UNDER THE PROVISIONS OF THIS**
26 **SUBTITLE:**

27 **(1) WITHOUT OBTAINING THE CONSENT OF ANY DEPARTMENT,**
28 **DIVISION, COMMISSION, BOARD, BUREAU, OR AGENCY OF THE STATE; OR**

29 **(2) WITHOUT ANY OTHER PROCEEDINGS OR CONDITIONS OTHER**
30 **THAN THOSE REQUIRED SPECIFICALLY BY PROVISIONS OF THIS SUBTITLE.**

1 **(G) THE BOARD SHALL ESTABLISH ONE OR MORE TRUST FUNDS FOR THE**
2 **DEPOSIT OF THE PROCEEDS OF THE PRIVATE FINANCING.**

3 **(H) THE BOARD MAY:**

4 **(1) MAINTAIN SEPARATE ACCOUNTS FOR PURPOSES OF IDENTIFYING**
5 **THE SOURCES OF PAYMENT FOR THE ACQUISITION, DEVELOPMENT, OR**
6 **IMPROVEMENT OF A PROJECT; AND**

7 **(2) RETAIN THE INTEREST OR OTHER INVESTMENT INCOME THAT**
8 **APPLY TO THE COSTS OF A PROJECT.**

9 **(I) (1) ANY PRIVATE FINANCING THAT IS SECURED UNDER THIS**
10 **SUBTITLE SHALL STATE ON ITS FACE THAT THE PRIVATE FINANCING DOES NOT**
11 **CREATE OR CONSTITUTE ANY INDEBTEDNESS OR OBLIGATION OF THE STATE, OF**
12 **THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, OR OF ANY**
13 **OTHER POLITICAL SUBDIVISION OF THE STATE, EXCEPT THE BOARD.**

14 **(2) THE PRIVATE FINANCING DOES NOT CONSTITUTE A DEBT OR**
15 **OBLIGATION CONTRACTED BY THE GENERAL ASSEMBLY OR PLEDGE THE FAITH AND**
16 **CREDIT OF THE STATE.**

17 **(J) THE PRIVATE FINANCING THAT IS SECURED SHALL BE PAYABLE FROM**
18 **AND SECURED SOLELY BY:**

19 **(1) ALL OR ANY PART OF THE FEES OR REVENUES GENERATED BY AN**
20 **ACTIVITY OF THE BOARD;**

21 **(2) THE PROCEEDS OF THE PRIVATE FINANCING AND INVESTMENT**
22 **EARNINGS;**

23 **(3) ANY GRANT OR GIFT RECEIVED BY THE BOARD;**

24 **(4) RESERVES OR OTHER FUNDS ESTABLISHED FOR THE PRIVATE**
25 **FINANCING;**

26
27 **(5) ANY MONEY THAT MAY BE APPLIED TO THE PAYMENT OF THE**
28 **PRIVATE FINANCING, INCLUDING ANY APPROPRIATION BY THE STATE OR BOARD OF**
29 **COUNTY COMMISSIONERS OF WASHINGTON COUNTY FOR SUCH PURPOSE; OR**

30 **(6) ANY SOURCE OF FUNDS TO WHICH THE BOARD HAS ACCESS FOR**
31 **SUCH PURPOSE.**

1 **(K) ALL EXPENSES INCURRED IN CARRYING OUT THE PROVISIONS OF ANY**
2 **RESOLUTION MAY BE CONSIDERED A PART OF THE COST OF THE OPERATIONS OF**
3 **THE BOARD.**

4 **(L) THE COST OF FINANCING OR REFINANCING ALL OR ANY PART OF ANY**
5 **PROJECT SHALL INCLUDE THE EXPENSES OF OBTAINING PRIVATE FINANCING.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2015.