

SENATE BILL 924

F1, F5

5lr3081

By: **Senator Serafini**

Introduced and read first time: March 9, 2015

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **County Boards of Education – Private Financing Authority**

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

17 BY adding to

18 Article – Education

19 Section 5–701 and 5–702 to be under the new subtitle “Subtitle 7. Private Financing
20 Authority”

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 7. PRIVATE FINANCING AUTHORITY.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-701.**

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

4 (B) "COUNTY BOARD" HAS THE MEANING STATED IN § 1-101 OF THIS
5 ARTICLE.

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

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

13 **5-702.**

14 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COUNTY BOARD MAY
15 SEEK PRIVATE FINANCING FOR THE PURPOSE OF FINANCING OR REFINANCING ALL
16 OR ANY PART OF THE COSTS OF ANY PROJECT OR CAPITAL LEASE FOR EQUIPMENT.

17 (B) (1) THE AGGREGATE PRINCIPAL AMOUNT OF THE PRIVATE
18 FINANCING OUTSTANDING, AS OF THE DATE THE PRIVATE FINANCING IS SECURED,
19 MAY NOT EXCEED 5% OF THE ANNUAL OPERATING BUDGET OF THE COUNTY BOARD.

20 (2) THE PROJECTED ANNUAL DEBT SERVICE MAY NOT BE MORE THAN
21 2.5% OF THE ANNUAL OPERATING BUDGET OF THE COUNTY BOARD.

22 (3) THE TERMS OF THE FINANCING AGREEMENT MAY NOT EXCEED 10
23 YEARS.

24 (C) PRIVATE FINANCING SHALL BE AUTHORIZED BY A RESOLUTION OF THE
25 COUNTY BOARD AND MAY BE SECURED BY A FINANCIAL INSTRUMENT BY AND
26 BETWEEN THE COUNTY BOARD AND A LENDER.

27 (D) THE RESOLUTION OF THE COUNTY BOARD AUTHORIZING THE PRIVATE
28 FINANCING SHALL:

29 (1) DESCRIBE THE PROJECTS THAT ARE TO BE FINANCED OR
30 REFINANCED;

1 **(2) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE PRIVATE**
2 **FINANCING;**

3 **(3) DESCRIBE THE SOURCES OF PAYMENT OF THE PRIVATE**
4 **FINANCING; AND**

5 **(4) PROVIDE THAT THE PROCEEDS OF THE PRIVATE FINANCING**
6 **SHALL BE INVESTED IN ACCORDANCE WITH ANY INVESTMENT POLICY APPROVED BY**
7 **THE COUNTY BOARD.**

8 **(E) THE RESOLUTION OF THE COUNTY BOARD OR FINANCIAL INSTRUMENT**
9 **MAY CONTAIN PROVISIONS THAT:**

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

14 **(2) PROVIDE FOR SECURED PRIVATE FINANCING TO FINANCE OR**
15 **REFINANCE ANY PROJECTS THAT MAY NOT EXCEED THE TOTAL VALUE OF THE**
16 **OUTSTANDING PRIVATE FINANCING ALLOWED UNDER SUBSECTION (B) OF THIS**
17 **SECTION;**

18 **(3) ASSIGN ALL OR ANY PART OF THE FUNDS OR ASSETS OF THE**
19 **COUNTY BOARD; AND**

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

23 **(I) THE DUTIES OF THE COUNTY BOARD IN RELATION TO THE**
24 **PROJECT;**

25 **(II) THE DUTIES OF THE COUNTY BOARD IN RELATION TO THE**
26 **FUNDS OF THE COUNTY BOARD;**

27 **(III) THE CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL**
28 **MONEY; AND**

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

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

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

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

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

9 **(H) THE COUNTY BOARD MAY:**

10 **(1) MAINTAIN SEPARATE ACCOUNTS FOR PURPOSES OF IDENTIFYING**
11 **THE SOURCES OF PAYMENT FOR THE ACQUISITION, DEVELOPMENT, OR**
12 **IMPROVEMENT OF A PROJECT; AND**

13 **(2) RETAIN THE INTEREST OR OTHER INVESTMENT INCOME THAT**
14 **APPLIES TO THE COSTS OF A PROJECT.**

15 **(I) (1) ANY PRIVATE FINANCING THAT IS SECURED UNDER THIS**
16 **SUBTITLE SHALL STATE ON ITS FACE THAT THE PRIVATE FINANCING DOES NOT**
17 **CREATE OR CONSTITUTE ANY INDEBTEDNESS OR OBLIGATION OF THE STATE, OF**
18 **THE GOVERNING BODY OF THE COUNTY, OR OF ANY OTHER POLITICAL SUBDIVISION**
19 **OF THE STATE, EXCEPT THE COUNTY BOARD.**

20 **(2) THE PRIVATE FINANCING DOES NOT CONSTITUTE A DEBT OR AN**
21 **OBLIGATION CONTRACTED BY THE GENERAL ASSEMBLY OR PLEDGE THE FAITH AND**
22 **CREDIT OF THE STATE.**

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

25 **(1) ALL OR ANY PART OF THE FEES OR REVENUES GENERATED BY AN**
26 **ACTIVITY OF THE COUNTY BOARD;**

27 **(2) THE PROCEEDS OF THE PRIVATE FINANCING AND INVESTMENT**
28 **EARNINGS;**

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

1 **(4) RESERVES OR OTHER FUNDS ESTABLISHED FOR THE PRIVATE**
2 **FINANCING;**

3 **(5) ANY MONEY THAT MAY BE APPLIED TO THE PAYMENT OF THE**
4 **PRIVATE FINANCING, INCLUDING ANY APPROPRIATION BY THE STATE OR THE**
5 **GOVERNING BODY OF THE COUNTY FOR SUCH PURPOSE; OR**

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

8 **(K) ALL EXPENSES INCURRED IN CARRYING OUT THE PROVISIONS OF ANY**
9 **RESOLUTION MAY BE CONSIDERED A PART OF THE COST OF THE OPERATIONS OF**
10 **THE COUNTY BOARD.**

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2015.