

SENATE BILL 645

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B3

1999 Regular Session
9r1913

By: **Senators Ferguson and Mooney (Frederick County Senators)**
Introduced and read first time: February 5, 1999
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County - Public Facilities Bonds**

3 FOR the purpose of authorizing and empowering the County Commissioners of
4 Frederick County, from time to time, to borrow not more than \$90,000,000 in
5 order to finance the cost of certain public facilities in Frederick County, as
6 herein defined, and to effect such borrowing by the issuance and sale at public or
7 private sale of its general obligation bonds in like par amount; empowering the
8 County to fix and determine, by resolution, the form, tenor, interest rate or rates
9 or method of determining the same, terms, conditions, maturities, and all other
10 details incident to the issuance and sale of the bonds; empowering the County to
11 issue refunding bonds for the purchase or redemption of bonds in advance of
12 maturity; empowering and directing the County to levy, impose, and collect,
13 annually, ad valorem taxes in rate and amount sufficient to provide funds for
14 the payment of the maturing principal of and interest on the bonds; exempting
15 the bonds and refunding bonds and the interest thereon and any income derived
16 therefrom from all State, county, municipal, and other taxation in the State of
17 Maryland; providing that nothing in this Act shall prevent the County from
18 authorizing the issuance and sale of bonds the interest on which is not
19 excludable from gross income for federal income tax purposes; and generally
20 relating to the issuance and sale of the bonds by Frederick County.

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That, as used herein, the term "County" means the body politic and
23 corporate of the State of Maryland known as the County Commissioners of Frederick
24 County, and the term "public facilities" means the cost of construction and
25 reconstruction of capital projects, including but not limited to landfill projects, public
26 schools, roads, bridges, flood control projects, solid waste facilities, water and leachate
27 treatment facilities, libraries, and communication systems, including the
28 development of property, the acquisition and installation of equipment and
29 furnishings, together with any related architectural, financial, legal, planning, or
30 engineering services.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby
32 authorized to finance any part or all of the costs of the public facilities described in
33 Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at
34 one time or from time to time, in an amount not exceeding, in the aggregate,

1 \$90,000,000 and to evidence such borrowing by the issuance and sale upon its full
2 faith and credit of general obligation bonds in like par amount, which may be issued
3 at one time or from time to time, in one or more groups or series, as the County may
4 determine.

5 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued
6 pursuant to a resolution of the County, which shall describe generally the public
7 facilities for which the proceeds of the bond sale are intended and the amount needed
8 for those purposes. The County shall have and is hereby granted full and complete
9 authority and discretion in the resolution to fix and determine with respect to the
10 bonds of any issue: the designation, date of issue, denomination or denominations,
11 form or forms, and tenor of the bonds; the rate or rates of interest payable thereon, or
12 the method of determining the same, which may include a variable rate; the date or
13 dates and amount or amounts of maturity, which need not be in equal par amounts or
14 in consecutive annual installments, provided only that no bond of any issue shall
15 mature later than 30 years from the date of its issue; the manner of selling the bonds,
16 which may be at either public or private sale, for such price or prices as may be
17 determined to be for the best interests of Frederick County; the manner of executing
18 and sealing the bonds, which may be by facsimile; the terms and conditions, if any,
19 under which bonds may be tendered for payment or purchase prior to their stated
20 maturity; the terms or conditions, if any, under which bonds may or shall be redeemed
21 prior to their stated maturity; the place or places of payment of the principal of and
22 the interest on the bonds, which may be at any bank or trust company within or
23 without the State of Maryland; covenants relating to compliance with applicable
24 requirements of federal income tax law, including covenants regarding the payment of
25 rebate or penalties in lieu of rebate; covenants relating to compliance with applicable
26 requirements of federal or state securities laws; and generally all matters incident to
27 the terms, conditions, issuance, sale, and delivery thereof.

28 The County may enter into agreements with agents, banks, fiduciaries,
29 insurers, or others for the purpose of enhancing the marketability of any security for
30 the bonds and for the purpose of securing any tender option that may be granted to
31 holders of the bonds.

32 In case any officer whose signature appears on any bond or on any coupon
33 attached thereto ceases to be such officer before the delivery thereof, such signature
34 shall nevertheless be valid and sufficient for all purposes as if he had remained in
35 office until such delivery. The bonds and the issuance and sale thereof shall be exempt
36 from the provisions of Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of
37 Maryland.

38 If the County determines in the resolution to offer any of the bonds by
39 solicitation of competitive bids at public sale, the resolution shall fix the terms and
40 conditions of the public sale and shall adopt a form of notice of sale, which shall
41 outline the terms and conditions, and a form of advertisement, which shall be
42 published in one or more daily or weekly newspapers having a general circulation in
43 the County and which may also be published in one or more journals having a
44 circulation primarily among banks and investment bankers.

1 Upon delivery of any bonds to the purchaser or purchasers, payment therefor
2 shall be made to the Treasurer of Frederick County or such other official of Frederick
3 County as may be designated to receive such payment in a resolution passed by the
4 County Commissioner of Frederick County before delivery. For purposes of issuance
5 and sale, bonds authorized hereunder may be consolidated into a single issue with
6 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 public facilities
9 for which the bonds are sold. If the net proceeds of the sale of any issue of bonds
10 exceeds the amount needed to finance the public facilities described in the resolution,
11 the excess funds so borrowed and not expended shall be applied to the payment of the
12 next principal maturity of the bonds or to the redemption of any part of the bonds
13 which have been made redeemable or to the purchase and cancellation of bonds,
14 unless the County shall adopt a resolution allocating the excess funds to the costs of
15 other public facilities.

16 SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby
17 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full
18 faith and credit and unlimited taxing power of the County to the payment of the
19 maturing principal of and interest on the bonds as and when they become payable. In
20 each and every fiscal year that any of the bonds are outstanding, the County shall
21 levy or cause to be levied ad valorem taxes upon all the assessable property within the
22 corporate limits of Frederick County in rate and amount sufficient to provide for or
23 assure the payment, when due, of the principal of and interest on all the bonds
24 maturing in each such fiscal year and, in the event the proceeds from the taxes so
25 levied in any such fiscal year shall prove inadequate for such payment, additional
26 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The
27 County may apply to the payment of the principal of and interest on any bonds issued
28 hereunder any funds received by it from the State of Maryland, the United States of
29 America, any agency or instrumentality thereof, or from any other source. If such
30 funds are granted for the purpose of assisting the County in financing the
31 construction, improvement, development, or renovation of the public facilities defined
32 in this Act and, to the extent of any such funds received or receivable in any fiscal
33 year, the taxes that might otherwise be levied under this Act, may be reduced or need
34 not be levied.

35 SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby
36 further authorized and empowered, at any time and from time to time, to issue its
37 bonds in the manner herein above described for the purpose of refunding, by payment
38 at maturity or upon purchase or redemption, any bonds issued hereunder. The
39 validity of any such refunding bonds shall in no way be dependent upon or related to
40 the validity or invalidity of the obligations so refunded. The powers herein granted
41 with respect to the issuance of bonds shall be applicable to the issuance of refunding
42 bonds. Such refunding bonds may be issued by the County for the purpose of
43 providing it with funds to pay any of its outstanding bonds issued hereunder at
44 maturity, for the purpose of providing it with funds to purchase in the open market
45 any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the
46 purpose of providing it with funds for the redemption prior to maturity of any

1 outstanding bonds issued hereunder which are, by their terms, redeemable, for the
2 purpose of providing it with funds to pay interest on any outstanding bonds issued
3 hereunder prior to their payment at maturity of purchase or redemption in advance of
4 maturity, or for the purpose of providing it with funds to pay any redemption or
5 purchase premium in connection with the refunding of any of its outstanding bonds
6 issued hereunder. The proceeds of the sale of any such refunding bonds shall be
7 segregated and set apart by the County as a separate trust fund to be used solely for
8 the purpose of paying the purchase or redemption prices of the bonds to be refunded.

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

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

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

27 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow
28 money and issue bonds conferred on the County by this Act shall be deemed to provide
29 additional, alternative, and supplemental authority for borrowing money and shall be
30 regarded as supplemental and additional to powers conferred upon the County by
31 other laws and shall not be regarded as in derogation of any power now existing; and
32 all Acts of the General Assembly of Maryland heretofore passed authorizing the
33 County to borrow money are hereby continued to the extent that the powers contained
34 in such Acts have not been exercised, and nothing contained in this Act may be
35 construed to impair, in any way, the validity of any bonds that may have been issued
36 by the County under the authority of any said Acts, and the validity of the bonds is
37 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of
38 the inhabitants of Frederick County, shall be liberally construed to effect the purposes
39 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are
40 hereby repealed to the extent of such inconsistency.

41 SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect
42 June 1, 1999.