

SENATE BILL 645

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B3

1999 Regular Session  
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By: **Senators Ferguson and Mooney (Frederick County Senators)**

Introduced and read first time: February 5, 1999

Assigned to: Budget and Taxation

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 26, 1999

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CHAPTER \_\_\_\_\_

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

1 development of property, the acquisition and installation of equipment and  
2 furnishings, together with any related architectural, financial, legal, planning, or  
3 engineering services.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby  
5 authorized to finance any part or all of the costs of the public facilities described in  
6 Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at  
7 one time or from time to time, in an amount not exceeding, in the aggregate,  
8 \$90,000,000 and to evidence such borrowing by the issuance and sale upon its full  
9 faith and credit of general obligation bonds in like par amount, which may be issued  
10 at one time or from time to time, in one or more groups or series, as the County may  
11 determine.

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

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

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

1 If the County determines in the resolution to offer any of the bonds by  
2 solicitation of competitive bids at public sale, the resolution shall fix the terms and  
3 conditions of the public sale and shall adopt a form of notice of sale, which shall  
4 outline the terms and conditions, and a form of advertisement, which shall be  
5 published in one or more daily or weekly newspapers having a general circulation in  
6 the County and which may also be published in one or more journals having a  
7 circulation primarily among banks and investment bankers.

8 Upon delivery of any bonds to the purchaser or purchasers, payment therefor  
9 shall be made to the Treasurer of Frederick County or such other official of Frederick  
10 County as may be designated to receive such payment in a resolution passed by the  
11 County Commissioner of Frederick County before delivery. For purposes of issuance  
12 and sale, bonds authorized hereunder may be consolidated into a single issue with  
13 any other bonds authorized to be issued by the County.

14 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the  
15 sale of bonds shall be used and applied exclusively and solely for the public facilities  
16 for which the bonds are sold. If the net proceeds of the sale of any issue of bonds  
17 exceeds the amount needed to finance the public facilities described in the resolution,  
18 the excess funds so borrowed and not expended shall be applied to the payment of the  
19 next principal maturity of the bonds or to the redemption of any part of the bonds  
20 which have been made redeemable or to the purchase and cancellation of bonds,  
21 unless the County shall adopt a resolution allocating the excess funds to the costs of  
22 other public facilities.

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

42 SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby  
43 further authorized and empowered, at any time and from time to time, to issue its  
44 bonds in the manner herein above described for the purpose of refunding, by payment  
45 at maturity or upon purchase or redemption, any bonds issued hereunder. The

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

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

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

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

35 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow  
36 money and issue bonds conferred on the County by this Act shall be deemed to provide  
37 additional, alternative, and supplemental authority for borrowing money and shall be  
38 regarded as supplemental and additional to powers conferred upon the County by  
39 other laws and shall not be regarded as in derogation of any power now existing; and  
40 all Acts of the General Assembly of Maryland heretofore passed authorizing the  
41 County to borrow money are hereby continued to the extent that the powers contained  
42 in such Acts have not been exercised, and nothing contained in this Act may be  
43 construed to impair, in any way, the validity of any bonds that may have been issued  
44 by the County under the authority of any said Acts, and the validity of the bonds is  
45 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of

1 the inhabitants of Frederick County, shall be liberally construed to effect the purposes  
2 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are  
3 hereby repealed to the extent of such inconsistency.

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