

SENATE BILL 525

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2002 Regular Session
2lr2084
CF 2lr2085

By: **Senator McFadden (Baltimore City Administration)**

Introduced and read first time: February 1, 2002

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Qualified Distressed Counties - State Assisted Tax Increment Financing**

3 FOR the purpose of authorizing a local jurisdiction that establishes certain
4 development districts to pledge towards the repayment of certain bonds certain
5 amounts remitted by the State to the local jurisdiction; authorizing the
6 Secretary of Business and Economic Development to approve certain
7 development districts for certain State assistance under certain circumstances;
8 providing that for a development district that is approved by the Secretary for
9 certain State assistance, the State, as provided in the State budget, shall remit
10 to the local jurisdiction a certain amount equal to a portion of certain State tax
11 revenues attributable to the development district and, under certain
12 circumstances, a certain amount equal to a portion of local property tax
13 revenues attributable to the property tax increment for the development district
14 pledged towards the repayment of certain bonds; requiring a local jurisdiction
15 establishing a development district that is approved by the Secretary of
16 Business and Economic Development for certain State assistance to pledge
17 towards the repayment of certain bonds at least a certain portion of certain
18 payments received from the State; requiring the Comptroller and the Director of
19 the State Department of Assessments and Taxation to certify certain tax
20 revenues attributable to a development district that is approved by the
21 Secretary for certain State assistance for certain years; altering the amount that
22 the State is required to remit to a county or municipal corporation for certain
23 property tax credits granted for property located in an enterprise zone if the
24 property is located in a qualified economically distressed county or in a certain
25 area of the State; requiring a county or municipal corporation to use certain
26 amounts remitted by the State to the county or municipal corporation only for
27 certain purposes; and generally relating to certain State assistance for tax
28 increment financing in certain areas of the State.

29 BY repealing and reenacting, with amendments,
30 The Charter of Baltimore City
31 Article II - General Powers
32 Section 62(a) and (d)
33 (1996 Edition and 2000 Supplement, as amended)
34 (As enacted by Chapter 170 of the Acts of the General Assembly of 2001)

1 BY repealing and reenacting, with amendments,
2 Article 41 - Governor - Executive and Administrative Departments
3 Section 14-204 and 14-206
4 Annotated Code of Maryland
5 (1997 Replacement Volume and 2001 Supplement)

6 BY adding to
7 Article 83A - Department of Business and Economic Development
8 Section 5-1701 through 5-1704, inclusive, to be under the new subtitle "Subtitle
9 17. State Assisted Tax Increment Financing"
10 Annotated Code of Maryland
11 (1998 Replacement Volume and 2001 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Tax - Property
14 Section 9-103(h)
15 Annotated Code of Maryland
16 (2001 Replacement Volume and 2001 Supplement)

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

19 **The Charter of Baltimore City**

20 Article II - General Powers

21 The Mayor and City Council of Baltimore shall have full power and authority to
22 exercise all of the powers heretofore or hereafter granted to it by the Constitution of
23 Maryland or by any Public General or Public Local Laws of the State of Maryland;
24 and in particular, without limitation upon the foregoing, shall have power by
25 ordinance, or such other method as may be provided for in its Charter, subject to the
26 provisions of said Constitution and Public General Laws:

27 (62) (a) (1) To borrow money by issuing and selling bonds, at any time and
28 from time to time, for the purpose of financing and refinancing the development of an
29 industrial, commercial, or residential area in Baltimore City. Such bonds shall be
30 payable from and secured by a pledge of the special fund described in subsection
31 (d)(3)(ii) of this section and the Mayor and City Council of Baltimore may also
32 establish sinking funds, establish debt service reserve funds, or pledge other assets
33 and revenues towards the payments of the principal and interest, including revenues
34 received by the Mayor and City Council of Baltimore pursuant to a development
35 agreement.

36 (2) (i) In lieu of the pledges set forth in paragraph (1) of this
37 subsection, the authorizing ordinance or trust agreement, subject to subparagraphs
38 (ii) and (iii) of this paragraph, may pledge or assign:

1 1. All or any part of that portion of the revenues and receipts
2 from the taxes representing the levy on the tax increment that would normally be
3 paid to the Mayor and City Council of Baltimore to the payment of such principal and
4 interest;

5 2. The special fund described in subsection (d)(3)(ii) of this
6 section and any other fund into which all or any part of such revenues and receipts
7 are deposited after such revenues and receipts are appropriated by the Mayor and
8 City Council of Baltimore to the payment of such principal and interest; [and]

9 3. AMOUNTS REMITTED TO THE MAYOR AND CITY COUNCIL
10 OF BALTIMORE BY THE STATE UNDER § 9-103(H) OF THE TAX - PROPERTY ARTICLE OF
11 THE ANNOTATED CODE OF MARYLAND, AS AMENDED OR ARTICLE 83A, § 5-1702 OF
12 THE ANNOTATED CODE OF MARYLAND, AS AMENDED; AND

13 4. any other assets and revenues of the Mayor and City
14 Council of Baltimore.

15 (ii) The revenues and receipts may not be irrevocably pledged to the
16 payment of such principal and interest and the obligation to pay such principal and
17 interest from such revenues and receipts shall be subject to annual appropriation by
18 the Mayor and City Council of Baltimore.

19 (iii) The Mayor and City Council of Baltimore may not pledge its full
20 faith and credit or unlimited taxing power to the payment of such bonds.

21 (d) Before issuing any bonds under this section, the Mayor and City Council of
22 Baltimore shall:

23 (1) designate by ordinance an area or areas within the City of Baltimore
24 as a "development district";

25 (2) receive:

26 (I) from the Supervisor of Assessments a certification as to the
27 amount of the original assessable base, or if applicable, the adjusted assessable base;
28 AND

29 (II) FROM THE STATE COMPTROLLER AND THE DIRECTOR OF THE
30 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION THE BASE YEAR
31 CERTIFICATIONS MADE PURSUANT TO ARTICLE 83A, § 5-1704 OF THE ANNOTATED
32 CODE OF MARYLAND, AS AMENDED; and

33 (3) provide that until the bonds have been fully paid or thereafter, the
34 property taxes on real property within the development district shall be divided as
35 follows:

36 (i) that portion of the taxes which would be produced by the rate at
37 which taxes levied each year by the Mayor and City Council of Baltimore upon the
38 original taxable value shall be allocated to and when collected paid into the funds of

1 the Mayor and City Council of Baltimore in the same manner as taxes by the Mayor
2 and City Council of Baltimore on all other property are paid; and

3 (ii) that portion of the taxes representing the levy on the tax
4 increment that would normally be paid to the Mayor and City Council of Baltimore
5 shall be paid into a special fund to be applied in accordance with the provisions of
6 subsection (e) of this section. This yield shall not be considered as municipal taxes for
7 the purposes of any constant yield tax limitation or State or local restriction. No State
8 real property taxes may be paid into the special fund.

9 **Article 41 - Governor - Executive and Administrative Departments**

10 14-204.

11 (A) Bonds shall be payable from the special fund described in § 14-206(3)(ii) of
12 this subtitle [and the].

13 (B) THE governing body of the issuer may also pledge its full faith and credit or
14 establish sinking funds, establish debt service reserve funds, or pledge other assets
15 and revenues, INCLUDING AMOUNTS REMITTED TO THE GOVERNING BODY BY THE
16 STATE UNDER § 9-103(H) OF THE TAX - PROPERTY ARTICLE OR UNDER ARTICLE 83A, §
17 5-1702 OF THE CODE, towards the payments of the principal and interest.

18 14-206.

19 Before issuing these bonds, the governing body of the issuer shall:

20 (1) Designate by resolution a contiguous area within its jurisdiction as a
21 "development district". If the governing body of a county designates an area which is
22 wholly or partly within the corporate limits of a municipality, a resolution of the
23 governing body of the municipality, approving the district, is also required to establish
24 the district.

25 (2) Receive [from]:

26 (I) FROM the supervisor of assessments a certification as to the
27 amount of the original assessable base, or if applicable, the adjusted assessable base;
28 AND

29 (II) FROM THE COMPTROLLER AND THE DIRECTOR OF THE STATE
30 DEPARTMENT OF ASSESSMENTS AND TAXATION THE BASE YEAR CERTIFICATIONS
31 MADE PURSUANT TO ARTICLE 83A, § 5-1704 OF THE CODE.

32 (3) Pledge that until the bonds have been fully paid or thereafter, the
33 property taxes on real property within the development district shall be divided as
34 follows:

35 (i) That portion of the taxes which would be produced by the rate
36 at which taxes levied each year by or for a municipality or county upon the original
37 taxable value shall be allocated to and when collected paid into the funds of the

1 respective taxing bodies in the same manner as taxes by or for the taxing bodies on all
2 other property are paid.

3 (ii) That portion of the taxes representing the levy on the tax
4 increment that would normally be paid to the issuing body shall be paid into a special
5 fund to be applied in accordance with the provisions of § 14-208. This yield shall not
6 be considered as county or municipal taxes for the purposes of any constant yield tax
7 limitation or State or local restriction, except for tax revenues received from
8 residential properties in Prince George's County. No State real property taxes may be
9 paid into the special fund.

10 **Article 83A - Department of Business and Economic Development**

11 **SUBTITLE 17. STATE ASSISTED TAX INCREMENT FINANCING.**

12 5-1701.

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) "BASE YEAR" MEANS THE LAST CALENDAR YEAR ENDING PRIOR TO THE
16 YEAR IN WHICH THE ORDINANCE OR RESOLUTION CREATING A DEVELOPMENT
17 DISTRICT TAKES EFFECT.

18 (C) "DEVELOPMENT DISTRICT" MEANS A DEVELOPMENT DISTRICT
19 ESTABLISHED:

20 (1) BY A COUNTY OR MUNICIPAL CORPORATION UNDER ARTICLE 41,
21 TITLE 14, SUBTITLE 2 OF THE CODE; OR

22 (2) BY BALTIMORE CITY UNDER ARTICLE II, § 62 OF THE CHARTER OF
23 BALTIMORE CITY.

24 (D) "INITIAL STATE TAX AMOUNT" MEANS, AS TO ANY DEVELOPMENT
25 DISTRICT, THE SUM OF THE FOLLOWING TAXES, BUT ONLY TO THE EXTENT THE
26 TAXES ARE DESIGNATED AS AVAILABLE FOR STATE ASSISTANCE TO THE
27 DEVELOPMENT DISTRICT UNDER § 5-1703(B) OF THIS SUBTITLE:

28 (1) THE STATE INCOME TAX REVENUE FROM INDIVIDUALS COLLECTED
29 DURING THE BASE YEAR THAT IS ATTRIBUTABLE TO RESIDENTS OF THE
30 DEVELOPMENT DISTRICT;

31 (2) THE STATE PUBLIC SERVICE COMPANY FRANCHISE TAX REVENUE
32 COLLECTED DURING THE BASE YEAR THAT IS ATTRIBUTABLE TO ELECTRIC, GAS, OR
33 TELEPHONE SERVICE PROVIDED TO A SERVICE ADDRESS IN THE DEVELOPMENT
34 DISTRICT; AND

35 (3) THE STATE SALES AND USE TAX REMITTED BY VENDORS DURING
36 THE BASE YEAR THAT IS ATTRIBUTABLE TO TRANSACTIONS OCCURRING AT PLACES
37 OF BUSINESS LOCATED IN THE DEVELOPMENT DISTRICT.

1 (E) "NET STATE TAX INCREMENT" MEANS, FOR ANY DEVELOPMENT DISTRICT,
2 80% OF THE TOTAL STATE TAX INCREMENT GENERATED WITHIN A DEVELOPMENT
3 DISTRICT IN ANY CALENDAR YEAR.

4 (F) "STATE TAX INCREMENT" MEANS, FOR ANY DEVELOPMENT DISTRICT FOR
5 ANY CALENDAR YEAR, THE AMOUNT, IF ANY, BY WHICH THE INITIAL STATE TAX
6 AMOUNT IS LESS THAN THE SUM OF THE FOLLOWING TAXES, BUT ONLY TO THE
7 EXTENT THE TAXES ARE DESIGNATED AS AVAILABLE FOR STATE ASSISTANCE TO
8 THE DEVELOPMENT DISTRICT UNDER § 5-1703(B) OF THIS SUBTITLE:

9 (1) THE STATE INCOME TAX REVENUE FROM INDIVIDUALS COLLECTED
10 DURING THE CALENDAR YEAR THAT IS ATTRIBUTABLE TO RESIDENTS OF THE
11 DEVELOPMENT DISTRICT;

12 (2) THE STATE PUBLIC SERVICE COMPANY FRANCHISE TAX REVENUE
13 COLLECTED DURING THE CALENDAR YEAR THAT IS ATTRIBUTABLE TO ELECTRIC,
14 GAS, OR TELEPHONE SERVICE PROVIDED TO A SERVICE ADDRESS IN THE
15 DEVELOPMENT DISTRICT; AND

16 (3) THE STATE SALES AND USE TAX REMITTED BY VENDORS DURING
17 THE CALENDAR YEAR THAT IS ATTRIBUTABLE TO TRANSACTIONS OCCURRING AT
18 PLACES OF BUSINESS LOCATED IN THE DEVELOPMENT DISTRICT.

19 (G) "TAX INCREMENT FINANCING BONDS" MEANS BONDS ISSUED:

20 (1) BY A COUNTY OR MUNICIPAL CORPORATION UNDER ARTICLE 41,
21 TITLE 14, SUBTITLE 2 OF THE CODE; OR

22 (2) BY BALTIMORE CITY UNDER ARTICLE II, § 62 OF THE CHARTER OF
23 BALTIMORE CITY.

24 5-1702.

25 (A) (1) A LOCAL JURISDICTION THAT ESTABLISHES A DEVELOPMENT
26 DISTRICT MAY PLEDGE TOWARDS THE REPAYMENT OF TAX INCREMENT FINANCING
27 BONDS THE AMOUNTS REMITTED TO THE LOCAL JURISDICTION UNDER § 9-103(H) OF
28 THE TAX - PROPERTY ARTICLE OR UNDER SUBSECTION (B) OF THIS SECTION.

29 (2) THIS SUBSECTION DOES NOT LIMIT OR OTHERWISE AFFECT ANY
30 AUTHORITY OF A LOCAL JURISDICTION UNDER ANY OTHER PROVISION OF LAW TO
31 PLEDGE ANY OTHER ASSETS OR REVENUES TOWARDS THE REPAYMENT OF TAX
32 INCREMENT FINANCING BONDS.

33 (B) FOR A DEVELOPMENT DISTRICT THAT IS APPROVED BY THE SECRETARY
34 UNDER § 5-1703 OF THIS SUBTITLE:

35 (1) AS PROVIDED IN THE STATE BUDGET, FOR EACH FISCAL YEAR THE
36 STATE SHALL REMIT TO THE LOCAL JURISDICTION ESTABLISHING THE
37 DEVELOPMENT DISTRICT BY SEPTEMBER 1 OF THAT FISCAL YEAR:

1 (I) AN AMOUNT EQUAL TO THE NET STATE TAX INCREMENT FOR
2 THE DEVELOPMENT DISTRICT FOR THE CALENDAR YEAR THAT ENDED ON THE
3 DECEMBER 31 IMMEDIATELY PRECEDING THE BEGINNING OF THE FISCAL YEAR;
4 AND

5 (II) IF, IN ACCORDANCE WITH ARTICLE 41, TITLE 14, SUBTITLE 2 OF
6 THE CODE OR ARTICLE II, § 62 OF THE CHARTER OF BALTIMORE CITY, THE LOCAL
7 JURISDICTION HAS PLEDGED LOCAL PROPERTY TAX REVENUES ATTRIBUTABLE TO
8 THE PROPERTY TAX INCREMENT FOR THE DEVELOPMENT DISTRICT TOWARDS THE
9 REPAYMENT OF TAX INCREMENT FINANCING BONDS, AN AMOUNT EQUAL TO 50% OF
10 THE PROPERTY TAX REVENUES FOR THE TAXABLE YEAR THAT ENDED BEFORE THE
11 BEGINNING OF THE FISCAL YEAR THAT WERE PAID INTO THE SPECIAL FUND FOR
12 THE DEVELOPMENT DISTRICT DESCRIBED IN ARTICLE II, § 62(D)(3)(II) OF THE
13 CHARTER OF BALTIMORE CITY OR ARTICLE 41, § 14-206(3)(II) OF THE CODE; AND

14 (2) THE LOCAL JURISDICTION ESTABLISHING THE DEVELOPMENT
15 DISTRICT SHALL PLEDGE AT LEAST 30% OF THE PAYMENTS RECEIVED FROM THE
16 STATE UNDER THIS SUBTITLE REPRESENTING THE NET STATE TAX INCREMENT FOR
17 THE DEVELOPMENT DISTRICT TOWARDS THE REPAYMENT OF TAX INCREMENT
18 FINANCING BONDS.

19 5-1703.

20 (A) THE SECRETARY MAY APPROVE A DEVELOPMENT DISTRICT FOR STATE
21 ASSISTED TAX INCREMENT FINANCING UNDER THIS SUBTITLE ONLY IF THE
22 DEVELOPMENT DISTRICT IS LOCATED WHOLLY WITHIN:

23 (1) AN ENTERPRISE ZONE DESIGNATED UNDER § 5-402 OF THIS TITLE;
24 AND

25 (2) (I) A QUALIFIED DISTRESSED COUNTY, AS DEFINED IN § 5-1501 OF
26 THIS TITLE; OR

27 (II) THE AREA OF PRINCE GEORGE'S COUNTY LOCATED BETWEEN
28 INTERSTATE 495 AND THE DISTRICT OF COLUMBIA.

29 (B) IF THE SECRETARY APPROVES A DEVELOPMENT DISTRICT FOR STATE
30 ASSISTED TAX INCREMENT FINANCING UNDER THIS SUBTITLE, THE SECRETARY
31 MAY DESIGNATE THE NET STATE TAX INCREMENT ATTRIBUTABLE TO ONE OR MORE
32 OF THE FOLLOWING STATE TAXES AS AVAILABLE FOR STATE ASSISTANCE TO THE
33 DEVELOPMENT DISTRICT:

34 (1) THE STATE INCOME TAX ON INDIVIDUALS;

35 (2) THE STATE PUBLIC SERVICE COMPANY FRANCHISE TAX; AND

36 (3) THE STATE SALES AND USE TAX.

1 5-1704.

2 (A) IF THE SECRETARY APPROVES A DEVELOPMENT DISTRICT FOR STATE
3 ASSISTED TAX INCREMENT FINANCING UNDER THIS SUBTITLE, FOR THE BASE YEAR
4 AND EACH CALENDAR YEAR UNTIL ANY TAX INCREMENT FINANCING BONDS ISSUED
5 WITH RESPECT TO THE DEVELOPMENT DISTRICT ARE NO LONGER OUTSTANDING, TO
6 THE EXTENT THE SECRETARY HAS DESIGNATED THE NET STATE TAX INCREMENT
7 ATTRIBUTABLE TO THE TAX AS AVAILABLE FOR STATE ASSISTANCE TO THE
8 DEVELOPMENT DISTRICT:

9 (1) THE COMPTROLLER SHALL CERTIFY:

10 (I) THE STATE INCOME TAX REVENUE FROM INDIVIDUALS
11 COLLECTED DURING THE YEAR THAT IS ATTRIBUTABLE TO RESIDENTS OF THE
12 DEVELOPMENT DISTRICT; AND

13 (II) THE STATE SALES AND USE TAX REMITTED BY VENDORS
14 DURING THE YEAR THAT IS ATTRIBUTABLE TO TRANSACTIONS OCCURRING AT
15 PLACES OF BUSINESS LOCATED IN THE DEVELOPMENT DISTRICT; AND

16 (2) THE DIRECTOR OF THE STATE DEPARTMENT OF ASSESSMENTS AND
17 TAXATION SHALL CERTIFY THE STATE PUBLIC SERVICE COMPANY FRANCHISE TAX
18 REVENUE COLLECTED DURING THE YEAR THAT IS ATTRIBUTABLE TO ELECTRIC,
19 GAS, OR TELEPHONE SERVICE PROVIDED TO A SERVICE ADDRESS IN THE
20 DEVELOPMENT DISTRICT.

21 (B) THE CERTIFICATIONS REQUIRED UNDER SUBSECTION (A) OF THIS
22 SECTION SHALL BE MADE TO THE SECRETARY, THE COMPTROLLER, AND THE LOCAL
23 JURISDICTION ESTABLISHING THE DEVELOPMENT DISTRICT.

24 **Article - Tax - Property**

25 9-103.

26 (h) (1) [As] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
27 AS provided in the State budget, the State shall remit to each county or municipal
28 corporation an amount equal to one-half of the funds that would have been collected
29 if the property tax credit under this section had not been granted.

30 (2) (I) IF THE PROPERTY FOR WHICH THE PROPERTY TAX CREDIT
31 UNDER THIS SECTION IS GRANTED IS LOCATED IN A QUALIFIED DISTRESSED
32 COUNTY, AS DEFINED IN ARTICLE 83A, § 5-1501 OF THE CODE, OR IN THE AREA OF
33 PRINCE GEORGE'S COUNTY LOCATED BETWEEN INTERSTATE 495 AND THE DISTRICT
34 OF COLUMBIA, AS PROVIDED IN THE STATE BUDGET, THE STATE SHALL REMIT TO
35 EACH COUNTY OR MUNICIPAL CORPORATION AN AMOUNT EQUAL TO 80% OF THE
36 FUNDS THAT WOULD HAVE BEEN COLLECTED IF THE PROPERTY TAX CREDIT UNDER
37 THIS SECTION HAD NOT BEEN GRANTED.

38 (II) THE AMOUNT REMITTED TO A COUNTY OR MUNICIPAL
39 CORPORATION UNDER THIS PARAGRAPH IN EXCESS OF THE AMOUNT THAT WOULD

