

SENATE BILL 533

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HB 978/01 - APP

2002 Regular Session
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By: **Senators Currie, Forehand, Hafer, Hoffman, Hogan, Kasemeyer,
Lawlah, Middleton, Miller, Munson, Neall, Roesser, Ruben, and Van
Hollen**

Introduced and read first time: February 1, 2002
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Transportation - Special Bonds and Borrowings**

3 FOR the purpose of authorizing the Department of Transportation to issue certain
4 bonds and otherwise borrow funds to finance the cost of transportation facilities;
5 authorizing the Department to pledge and use existing and anticipated federal
6 funds to pay the principal of and interest on certain bonds; authorizing the
7 Department to borrow funds from the federal government and from a
8 nongovernment lender and to repay such loans and pledge to secure the
9 Department's obligations with revenues attributable to the transportation
10 facility being financed; establishing certain procedures for the issuance of
11 special transportation project revenue bonds; providing that the bonds shall be
12 investment securities under the laws of Maryland; exempting the bonds from
13 certain provisions of law; requiring the Department to report the proposed
14 issuance of certain bonds to the Legislative Policy Committee for review and
15 comment; providing for approval of the bonds by the Board of Public Works;
16 authorizing the issuance of refunding bonds, interim certificates or temporary
17 bonds, and bond anticipation notes; authorizing the Department to enter into a
18 certain trust agreement with respect to the bonds; exempting the bonds from
19 taxation by the State of Maryland and its political subdivisions; providing that
20 the bonds may not be considered a debt or a pledge of the faith and credit of the
21 State, but shall be payable only from certain revenues; providing for a certain
22 priority of certain claims; providing that the Department is only required to file
23 or record certain instruments in the records of the Department; and generally
24 relating to the issuance of certain bonds and the borrowing of certain funds by
25 the Department of Transportation.

26 BY adding to
27 Article - Transportation
28 Section 3-601 through 3-607, inclusive, to be under the new subtitle "Subtitle 6.
29 Special Bonds and Borrowings"
30 Annotated Code of Maryland
31 (2001 Replacement Volume)

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

3 **Article - Transportation**

4 **SUBTITLE 6. SPECIAL BONDS AND BORROWINGS.**

5 3-601.

6 (A) IN ORDER TO UTILIZE TO THE GREATEST EXTENT POSSIBLE THE
7 BENEFITS OF AVAILABLE FINANCIAL RESOURCES RELATING TO TRANSPORTATION
8 PURPOSES, INCLUDING FEDERAL GRANTS, LOANS, AND OTHER PROGRAMS, THE
9 DEPARTMENT FROM TIME TO TIME MAY ISSUE ITS BONDS AND OTHERWISE BORROW
10 FUNDS, AS PROVIDED IN THIS SUBTITLE, TO FINANCE THE COSTS OF
11 TRANSPORTATION FACILITIES.

12 (B) THE DEPARTMENT MAY APPLY FOR ANY FINANCIAL ASSISTANCE IN
13 SUPPORT OF PROJECTS DEEMED APPROPRIATE BY THE SECRETARY.

14 (C) THE DEPARTMENT MAY UNDERTAKE THE FOLLOWING ACTIONS AND DO
15 ALL THINGS NECESSARY AND APPROPRIATE CONSISTENT WITH SUCH ACTIONS TO
16 UTILIZE THE AVAILABLE RESOURCES SPECIFIED IN SUBSECTION (A) OF THIS
17 SECTION:

18 (1) PLEDGE AND USE EXISTING AND ANTICIPATED FEDERAL FUNDS
19 PAID TO OR EXPECTED TO BE PAID TO THE DEPARTMENT FOR TRANSPORTATION
20 PURPOSES FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE
21 DEPARTMENT'S BONDS OR OTHER DEBT OBLIGATIONS ISSUED UNDER THIS
22 SUBTITLE TO FINANCE THE COSTS OF TRANSPORTATION FACILITIES; AND

23 (2) (I) BORROW FUNDS FROM THE FEDERAL GOVERNMENT OR ITS
24 AGENCIES, AND EVIDENCE SUCH BORROWING WITH A PROMISSORY NOTE OR OTHER
25 EVIDENCE OF OBLIGATION;

26 (II) BORROW FUNDS FROM A NONGOVERNMENT LENDER IF THE
27 LOAN IS GUARANTEED BY THE FEDERAL GOVERNMENT OR ITS AGENCIES; AND

28 (III) 1. USE THE PROCEEDS OF THE LOANS DESCRIBED IN ITEMS
29 (I) AND (II) OF THIS PARAGRAPH IN CONNECTION WITH TRANSPORTATION FACILITIES
30 INCLUDING USE OF THE PROCEEDS TO PAY THE COSTS OF FINANCING
31 TRANSPORTATION FACILITIES AND THE PAYMENT OF DEBT SERVICE ON THE
32 DEPARTMENT'S BONDS ISSUED IN CONNECTION WITH SUCH TRANSPORTATION
33 FACILITIES;

34 2. REPAY THE LOANS WITH REVENUES ATTRIBUTABLE TO
35 THE TRANSPORTATION FACILITIES BEING FINANCED; AND

36 3. PLEDGE REVENUES ATTRIBUTABLE TO THE
37 TRANSPORTATION FACILITIES BEING FINANCED IN ORDER TO SECURE THE

1 DEPARTMENT'S OBLIGATIONS TO THE FEDERAL GOVERNMENT OR ITS AGENCIES OR
2 A NONGOVERNMENT LENDER IN CONNECTION WITH THE LOANS.

3 3-602.

4 (A) BONDS ISSUED BY THE DEPARTMENT UNDER THIS SUBTITLE SHALL BE
5 KNOWN AS "SPECIAL TRANSPORTATION PROJECT REVENUE BONDS".

6 (B) A RESOLUTION AUTHORIZING THE ISSUANCE OF SPECIAL
7 TRANSPORTATION PROJECT REVENUE BONDS SHALL:

8 (1) DESCRIBE GENERALLY THE TRANSPORTATION FACILITIES TO BE
9 FINANCED BY THE SALE OF BONDS;

10 (2) STATE THE ESTIMATED COST OF FINANCING THESE
11 TRANSPORTATION FACILITIES; AND

12 (3) WITH RESPECT TO THE BONDS, SPECIFY:

13 (I) THE DATE OF ISSUE;

14 (II) THE DATE OF EACH MATURITY, WHICH MAY NOT BE LATER
15 THAN 30 YEARS AFTER THE DATE OF ISSUE;

16 (III) THE AMOUNT OF EACH MATURITY, WHICH NEED NOT BE IN
17 EQUAL PRINCIPAL AMOUNTS OR CONSECUTIVE ANNUAL INSTALLMENTS;

18 (IV) THE RATE OF INTEREST PAYABLE ON THE BONDS, OR THE
19 MANNER OF DETERMINING THE RATE OF INTEREST, AND THE DATE OR DATES OF
20 PAYMENT OF INTEREST;

21 (V) THE TENOR, FORM, DENOMINATION, MANNER OF EXECUTION,
22 AND PLACE OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS,
23 WHICH MAY BE AT ANY BANK OR TRUST COMPANY WITHIN OR WITHOUT THE STATE;

24 (VI) WHETHER THE BONDS ARE TO BE ISSUED IN COUPON,
25 REGISTERED OR BOOK ENTRY FORM AND WHETHER PROVISION IS TO BE MADE FOR
26 THE REGISTRATION OF THE PRINCIPAL ONLY OF COUPON BONDS, FOR THE
27 RECONVERSION OF FULLY REGISTERED BONDS INTO COUPON FORM, AND FOR THE
28 REPLACEMENT OF BONDS THAT ARE MUTILATED, LOST, OR DESTROYED;

29 (VII) WHETHER THE BONDS ARE TO BE SOLD AT PUBLIC OR PRIVATE
30 SALE, AS DETERMINED BY THE SECRETARY;

31 (VIII) IF THE BONDS ARE TO BE SOLD AT PUBLIC SALE:

32 1. THE FORM OF NOTICE OF SALE, WHICH SHALL OUTLINE
33 THE TERMS AND CONDITIONS OF THE SALE; AND

THE FORM OF ADVERTISEMENT OF A SUMMARY NOTICE
OF SALE, WHICH SHALL BE PUBLISHED AT LEAST ONCE IN AN APPROPRIATE
NEWSPAPER OF GENERAL CIRCULATION AS DETERMINED BY THE SECRETARY;

4 (IX) WHETHER ALL OR ANY PART OF THE BONDS ARE REDEEMABLE
5 BEFORE MATURITY AND ANY TERMS, CONDITIONS, AND PRICES OF REDEMPTION;
6 AND

7 (X) ANY OTHER MATTER RELATING TO THE FORM, TERMS,
8 CONDITIONS, ISSUANCE, SALE, AND DELIVERY OF THE BONDS.

9 (C) (1) THE RESOLUTION MAY PROVIDE THAT THE SECRETARY MAY
10 POSTPONE THE TIME FOR RECEIPT OF PROPOSALS FOR THE BONDS WITHOUT
11 REPUBLISHING THE FORM OF ADVERTISEMENT FOR THE BONDS.

12 (2) (I) THE SECRETARY SHALL PROVIDE NOTICE OF THE NEW DATE
13 AND TIME OF SALE NOT LESS THAN 24 HOURS PRIOR TO THE TIME PROPOSALS ARE
14 TO BE SUBMITTED, WHICH DATE MAY NOT BE MORE THAN 30 DAYS AFTER THE
15 ORIGINALLY SCHEDULED DATE OF SALE.

16 (II) THE NOTICE MAY BE GIVEN BY TM3 NEWS SERVICE OR A
17 SIMILAR SERVICE OR ANY OTHER METHOD THAT THE SECRETARY DEEMS
18 APPROPRIATE.

19 (D) (1) SPECIAL TRANSPORTATION PROJECT REVENUE BONDS SHALL BE
20 EXECUTED ON BEHALF OF THE DEPARTMENT BY THE MANUAL OR FACSIMILE
21 SIGNATURE OF THE SECRETARY.

22 (2) OTHER SIGNATURES ON THE BONDS MAY BE EITHER MANUAL OR
23 FACSIMILE.

24 (3) IF AN INDIVIDUAL WHOSE MANUAL OR FACSIMILE SIGNATURE
25 APPEARS ON ANY BOND OR COUPON CEASES TO SERVE IN AN AUTHORIZED CAPACITY
26 BEFORE THE DELIVERY OF THE BOND, THE SIGNATURE NEVERTHELESS IS AS VALID
27 AND SUFFICIENT FOR ALL PURPOSES AS IF THE INDIVIDUAL HAD REMAINED IN
28 THAT CAPACITY UNTIL DELIVERY OF THE BOND.

29 (E) FORTY-FIVE DAYS BEFORE EACH ISSUANCE OF BONDS UNDER THIS
30 SECTION, THE DEPARTMENT MUST REPORT THE PROPOSED ISSUANCE TO THE
31 LEGISLATIVE POLICY COMMITTEE FOR REVIEW AND COMMENT.

32 (F) EACH ISSUE OF SPECIAL TRANSPORTATION PROJECT REVENUE BONDS
33 SHALL BE APPROVED BEFORE SALE BY RESOLUTION OF THE BOARD OF PUBLIC
34 WORKS.

35 3-603.

36 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY RECITALS IN
37 THE INSTRUMENTS, THE BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION

1 ISSUED UNDER THIS SUBTITLE ARE INVESTMENT SECURITIES UNDER THE LAWS OF
2 THIS STATE.

3 (B) THE BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION ISSUED
4 UNDER THIS SUBTITLE AND THEIR ISSUANCE AND SALE ARE EXEMPT FROM THE
5 PROVISIONS OF §§ 8-206 AND 8-208 OF THE STATE FINANCE AND PROCUREMENT
6 ARTICLE.

7 3-604.

8 (A) THE DEPARTMENT FROM TIME TO TIME MAY ISSUE ITS REFUNDING
9 BONDS FOR REFUNDING ANY SPECIAL TRANSPORTATION PROJECT REVENUE BONDS.

10 (B) THE POWERS GRANTED AND LIMITATIONS IMPOSED IN THIS SUBTITLE AS
11 TO THE ISSUANCE OF SPECIAL TRANSPORTATION PROJECT REVENUE BONDS ALSO
12 APPLY TO THE ISSUANCE OF REFUNDING BONDS.

13 (C) THE STATE TREASURER SHALL SEGREGATE THE PROCEEDS OF THE SALE
14 OF ANY REFUNDING BONDS IN A SEPARATE TRUST FUND TO BE USED ONLY TO PAY
15 THE PURCHASE OR REDEMPTION PRICES OF THE BONDS TO BE REFUNDED.

16 3-605.

17 (A) BEFORE THE PREPARATION OF DEFINITIVE BONDS, THE DEPARTMENT
18 MAY ISSUE ITS INTERIM CERTIFICATES OR TEMPORARY BONDS, WITH OR WITHOUT
19 COUPONS, EXCHANGEABLE FOR DEFINITIVE BONDS WHEN THE DEFINITIVE BONDS
20 HAVE BEEN EXECUTED AND ARE AVAILABLE FOR DELIVERY.

21 (B) THE DEPARTMENT MAY ISSUE ITS BOND ANTICIPATION NOTES, PAYABLE
22 TO THE BEARER OR REGISTERED HOLDER OF THE NOTES OUT OF THE FIRST
23 PROCEEDS OF THE NEXT SALE OF SPECIAL TRANSPORTATION PROJECT REVENUE
24 BONDS.

25 (C) THE RESOLUTION AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION
26 NOTES MAY PROVIDE FOR THE ISSUANCE OF THESE NOTES IN SERIES, AS FUNDS ARE
27 REQUIRED, AND FOR THE RENEWAL OF THESE NOTES AT MATURITY, WITH OR
28 WITHOUT RESALE.

29 (D) THE ISSUANCE OF BOND ANTICIPATION NOTES, THE DETAILS OF
30 ISSUANCE, THE RIGHTS OF THEIR HOLDERS, AND THE RIGHTS, DUTIES, AND
31 OBLIGATIONS OF THE DEPARTMENT WITH RESPECT TO THE BOND ANTICIPATION
32 NOTES ARE GOVERNED BY THE PROVISIONS OF THIS SUBTITLE RELATING TO THE
33 ISSUANCE OF THE BONDS IN ANTICIPATION OF THE SALE OF WHICH THE NOTES ARE
34 ISSUED.

35 3-606.

36 (A) (1) BONDS ISSUED UNDER THIS SUBTITLE MAY BE SECURED BY A TRUST
37 AGREEMENT BETWEEN THE DEPARTMENT AND A CORPORATE TRUSTEE, WHICH MAY

1 BE ANY TRUST COMPANY OR BANK HAVING TRUST POWERS WITHIN OR WITHOUT
2 THE STATE.

3 (2) THE TRUST AGREEMENT MAY PLEDGE OR ASSIGN ALL OR ANY PART
4 OF THE EXISTING AND ANTICIPATED FEDERAL FUNDS PAID TO OR EXPECTED TO BE
5 PAID TO THE DEPARTMENT FOR TRANSPORTATION PURPOSES.

6 (B) ANY TRUST AGREEMENT OR BOND AUTHORIZING RESOLUTION MAY:

7 (1) CONTAIN PROVISIONS FOR THE PROTECTION AND ENFORCEMENT
8 OF THE RIGHTS AND REMEDIES OF BONDHOLDERS AS ARE CONSIDERED
9 REASONABLE AND PROPER, INCLUDING COVENANTS SETTING FORTH THE DUTIES OF
10 THE DEPARTMENT AS TO THE FINANCING OR DEVELOPMENT OF ANY
11 TRANSPORTATION FACILITY, THE EXTENSION, ENLARGEMENT, IMPROVEMENT,
12 MAINTENANCE, OPERATION, REPAIR, AND INSURANCE OF THE TRANSPORTATION
13 FACILITY, AND THE CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

14 (2) PROVIDE FOR THE EMPLOYMENT OF CONSULTING ENGINEERS IN
15 CONNECTION WITH THE CONSTRUCTION OR OPERATION OF ANY TRANSPORTATION
16 FACILITY;

17 (3) SET FORTH THE RIGHTS AND REMEDIES OF THE BONDHOLDERS AND
18 OF THE TRUSTEE;

19 (4) RESTRICT THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS;
20 AND

21 (5) CONTAIN ANY OTHER PROVISIONS THAT THE DEPARTMENT
22 CONSIDERS REASONABLE AND PROPER FOR THE SECURITY OF THE BONDHOLDERS.

23 (C) ALL EXPENSES INCURRED IN CARRYING OUT THE TRUST AGREEMENT
24 MAY BE TREATED AS A PART OF THE COST OF THE OPERATION OF THE
25 TRANSPORTATION FACILITY IN CONNECTION WITH WHICH THE BONDS HAVE BEEN
26 ISSUED.

27 (D) THE PROCEEDS OF THE SALE OF BONDS SHALL BE PAID TO THE TRUSTEE
28 UNDER THE TRUST AGREEMENT SECURING THE BONDS AND SHALL BE DISBURSED
29 IN THE MANNER AND UNDER THE RESTRICTIONS, IF ANY, PROVIDED IN THE TRUST
30 AGREEMENT.

31 (E) ANY BANK OR TRUST COMPANY INCORPORATED UNDER THE LAWS OF
32 THIS STATE THAT ACTS AS DEPOSITARY OF THE PROCEEDS OF THE BONDS OR OF
33 REVENUES MAY FURNISH ANY INDEMNIFYING BONDS OR PLEDGE ANY SECURITIES
34 THAT THE DEPARTMENT REQUIRES.

35 3-607.

36 (A) THE BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION ISSUED
37 UNDER THIS SUBTITLE, THEIR TRANSFER, THE INTEREST PAYABLE ON THEM, AND
38 ANY INCOME DERIVED FROM THEM, INCLUDING ANY PROFIT REALIZED IN THEIR

1 SALE OR EXCHANGE, SHALL BE EXEMPT FROM TAXATION BY THIS STATE OR BY ANY
2 OF ITS POLITICAL SUBDIVISIONS, MUNICIPAL CORPORATIONS, OR PUBLIC AGENCIES.

3 (B) THE BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION ISSUED
4 UNDER THIS SUBTITLE ARE NOT AND MAY NOT BE CONSIDERED TO CONSTITUTE A
5 DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF MARYLAND, BUT
6 SHALL BE PAYABLE, AS TO BOTH PRINCIPAL AND INTEREST, ONLY FROM THE
7 PROCEEDS OF THE REVENUES PLEDGED OR MADE AVAILABLE UNDER THIS
8 SUBTITLE FOR THIS PURPOSE.

9 (C) THE DEPARTMENT'S PLEDGE OF REVENUES AND FUNDS TO SECURE ITS
10 BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION ISSUED UNDER THIS
11 SUBTITLE, SHALL BE VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM
12 AGAINST THE DEPARTMENT, AND SHALL HAVE PRIORITY OVER ANY SUCH CLAIM,
13 REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE DEPARTMENT'S
14 PLEDGE.

15 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT IS
16 ONLY REQUIRED TO FILE OR RECORD IN THE RECORDS OF THE DEPARTMENT ANY
17 RESOLUTION, TRUST AGREEMENT, OR OTHER INSTRUMENT THAT CREATES A LIEN
18 ON, A SECURITY INTEREST IN, OR AN ASSIGNMENT OF:

19 (1) ANY REVENUES;

20 (2) ANY RIGHTS TO RECEIVE REVENUES; OR

21 (3) ANY MONEYS OR SECURITIES IN THE FUNDS AND ACCOUNTS
22 PLEDGED TO THE BONDS, NOTES, OR OTHER EVIDENCE OF OBLIGATION OF THE
23 DEPARTMENT.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 June 1, 2002.