

SENATE BILL 533

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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

Committee Report: Favorable
Senate action: Adopted
Read second time: March 20, 2002

CHAPTER _____

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.

1 BY adding to
2 Article - Transportation
3 Section 3-601 through 3-607, inclusive, to be under the new subtitle "Subtitle 6.
4 Special Bonds and Borrowings"
5 Annotated Code of Maryland
6 (2001 Replacement Volume)

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

9 **Article - Transportation**

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

11 3-601.

12 (A) IN ORDER TO UTILIZE TO THE GREATEST EXTENT POSSIBLE THE
13 BENEFITS OF AVAILABLE FINANCIAL RESOURCES RELATING TO TRANSPORTATION
14 PURPOSES, INCLUDING FEDERAL GRANTS, LOANS, AND OTHER PROGRAMS, THE
15 DEPARTMENT FROM TIME TO TIME MAY ISSUE ITS BONDS AND OTHERWISE BORROW
16 FUNDS, AS PROVIDED IN THIS SUBTITLE, TO FINANCE THE COSTS OF
17 TRANSPORTATION FACILITIES.

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

20 (C) THE DEPARTMENT MAY UNDERTAKE THE FOLLOWING ACTIONS AND DO
21 ALL THINGS NECESSARY AND APPROPRIATE CONSISTENT WITH SUCH ACTIONS TO
22 UTILIZE THE AVAILABLE RESOURCES SPECIFIED IN SUBSECTION (A) OF THIS
23 SECTION:

24 (1) PLEDGE AND USE EXISTING AND ANTICIPATED FEDERAL FUNDS
25 PAID TO OR EXPECTED TO BE PAID TO THE DEPARTMENT FOR TRANSPORTATION
26 PURPOSES FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE
27 DEPARTMENT'S BONDS OR OTHER DEBT OBLIGATIONS ISSUED UNDER THIS
28 SUBTITLE TO FINANCE THE COSTS OF TRANSPORTATION FACILITIES; AND

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

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

34 (III) 1. USE THE PROCEEDS OF THE LOANS DESCRIBED IN ITEMS
35 (I) AND (II) OF THIS PARAGRAPH IN CONNECTION WITH TRANSPORTATION FACILITIES
36 INCLUDING USE OF THE PROCEEDS TO PAY THE COSTS OF FINANCING
37 TRANSPORTATION FACILITIES AND THE PAYMENT OF DEBT SERVICE ON THE

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

2 1. THE FORM OF NOTICE OF SALE, WHICH SHALL OUTLINE
3 THE TERMS AND CONDITIONS OF THE SALE; AND

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

7 (IX) WHETHER ALL OR ANY PART OF THE BONDS ARE REDEEMABLE
8 BEFORE MATURITY AND ANY TERMS, CONDITIONS, AND PRICES OF REDEMPTION;
9 AND

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

12 (C) (1) THE RESOLUTION MAY PROVIDE THAT THE SECRETARY MAY
13 POSTPONE THE TIME FOR RECEIPT OF PROPOSALS FOR THE BONDS WITHOUT
14 REPUBLISHING THE FORM OF ADVERTISEMENT FOR THE BONDS.

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

19 (II) THE NOTICE MAY BE GIVEN BY TM3 NEWS SERVICE OR A
20 SIMILAR SERVICE OR ANY OTHER METHOD THAT THE SECRETARY DEEMS
21 APPROPRIATE.

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

25 (2) OTHER SIGNATURES ON THE BONDS MAY BE EITHER MANUAL OR
26 FACSIMILE.

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

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

35 (F) EACH ISSUE OF SPECIAL TRANSPORTATION PROJECT REVENUE BONDS
36 SHALL BE APPROVED BEFORE SALE BY RESOLUTION OF THE BOARD OF PUBLIC
37 WORKS.

1 3-603.

2 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY RECITALS IN
3 THE INSTRUMENTS, THE BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION
4 ISSUED UNDER THIS SUBTITLE ARE INVESTMENT SECURITIES UNDER THE LAWS OF
5 THIS STATE.

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

10 3-604.

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

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

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

19 3-605.

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

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

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

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

1 3-606.

2 (A) (1) BONDS ISSUED UNDER THIS SUBTITLE MAY BE SECURED BY A TRUST
3 AGREEMENT BETWEEN THE DEPARTMENT AND A CORPORATE TRUSTEE, WHICH MAY
4 BE ANY TRUST COMPANY OR BANK HAVING TRUST POWERS WITHIN OR WITHOUT
5 THE STATE.

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

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

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

17 (2) PROVIDE FOR THE EMPLOYMENT OF CONSULTING ENGINEERS IN
18 CONNECTION WITH THE CONSTRUCTION OR OPERATION OF ANY TRANSPORTATION
19 FACILITY;

20 (3) SET FORTH THE RIGHTS AND REMEDIES OF THE BONDHOLDERS AND
21 OF THE TRUSTEE;

22 (4) RESTRICT THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS;
23 AND

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

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

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

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

1 3-607.

2 (A) THE BONDS, NOTES, AND OTHER EVIDENCES OF OBLIGATION ISSUED
3 UNDER THIS SUBTITLE, THEIR TRANSFER, THE INTEREST PAYABLE ON THEM, AND
4 ANY INCOME DERIVED FROM THEM, INCLUDING ANY PROFIT REALIZED IN THEIR
5 SALE OR EXCHANGE, SHALL BE EXEMPT FROM TAXATION BY THIS STATE OR BY ANY
6 OF ITS POLITICAL SUBDIVISIONS, MUNICIPAL CORPORATIONS, OR PUBLIC AGENCIES.

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

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

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

23 (1) ANY REVENUES;

24 (2) ANY RIGHTS TO RECEIVE REVENUES; OR

25 (3) ANY MONEYS OR SECURITIES IN THE FUNDS AND ACCOUNTS
26 PLEDGED TO THE BONDS, NOTES, OR OTHER EVIDENCE OF OBLIGATION OF THE
27 DEPARTMENT.

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