

SENATE BILL 831

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2002 Regular Session
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By: **Senator Hoffman**
Introduced and read first time: February 15, 2002
Assigned to: Rules
Re-referred to: Budget and Taxation, March 14, 2002

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 31, 2002

CHAPTER _____

1 AN ACT concerning

2 **Maryland Stadium Authority - Hippodrome Performing Arts Center**

3 FOR the purpose of increasing the amount of the authorized bond issuance by the
4 Maryland Stadium Authority for acquisition, construction, and related expenses
5 of the Hippodrome Performing Arts Center facility; increasing the amount of
6 commitment that the Authority must secure to fund acquisition and capital
7 costs of construction; increasing the amount of bond proceeds that the Authority
8 must use for certain purposes; increasing the amount of funds that one or more
9 private entities must deposit to the Hippodrome Performing Arts Center
10 Financing Fund by a certain date; requiring one or more private entities to
11 agree to pay certain costs under certain circumstances; allowing for the
12 distribution of certain funds upon completion of the project; repealing certain
13 provisions authorizing the Maryland Stadium Authority to transfer or allow an
14 Authority affiliate to transfer certain tax credits; repealing certain provisions
15 relating to the allowance of certain tax credits with respect to the Hippodrome
16 Performing Arts Center facility; providing that certain tax credits may not be
17 claimed with respect to certain structures; and generally relating to the
18 authorized bond issuance by the Maryland Stadium Authority related to the
19 Hippodrome Performing Arts Center.

20 BY repealing
21 Article - Financial Institutions
22 Section 13-708(a)(18)
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 2001 Supplement)

25 BY repealing and reenacting, with amendments,

1 Article - Financial Institutions
2 Section 13-708(a)(19) and (20), 13-712(a)(1)₂ and 13-712.1
3 Annotated Code of Maryland
4 (1998 Replacement Volume and 2001 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 83B - Department of Housing and Community Development
7 Section 5-801(a)(4)(ii)
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 2001 Supplement)

10 BY repealing
11 Article 83B - Department of Housing and Community Development
12 Section 5-801(f)
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2001 Supplement)

15 BY repealing
16 Article - Tax - General
17 Section 10-207(u)
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 2001 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Tax - General
22 Section 10-307(g)
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 2001 Supplement)

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

27 **Article - Financial Institutions**

28 13-708.

29 (a) In addition to the powers set forth elsewhere in this subtitle, the Authority
30 may:

31 [(18) With respect to site acquisition, construction, and development of the
32 Hippodrome Performing Arts Center facility, transfer, or allow any Authority affiliate
33 to transfer, to any individual or entity the full amount of any State or local tax credit
34 to which the Authority or Authority affiliate would be entitled if it were subject to the
35 tax against which the credit is allowed;]

1 ~~[(19)]~~ (18) Impose the admissions and amusement tax authorized under §
2 4-102 of the Tax - General Article; and

3 ~~[(20)]~~ (19) Do all things necessary or convenient to carry out the powers
4 granted by this subtitle.

5 13-712.

6 (a) (1) (i) Subject to the prior approval of the Board of Public Works and
7 the provisions of subparagraphs (ii), (iii), (iv), (v), and (vi) of this paragraph, the
8 Authority may at any time and from time to time issue bonds for any corporate
9 purpose, including the establishment of reserves and the payment of interest. In this
10 subtitle the term "bonds" includes notes of any kind, interim certificates, refunding
11 bonds, or any other evidence of obligation and "tax supported debt" of the State has
12 the meaning assigned to such term in § 8-104 of the State Finance and Procurement
13 Article.

14 (ii) 1. Unless authorized by the General Assembly, the Board of
15 Public Works may not give approval to an issuance of bonds for sports facilities at
16 Camden Yards which constitute tax supported debt of the State, if after issuance
17 there would be outstanding and unpaid \$235 million face amount of bonds which
18 constitute tax supported debt of the State, whether taxable or tax exempt, for the
19 purposes of financing site acquisition and preparation, relocation, demolition and
20 removal, construction and related expenses for construction management,
21 professional fees, and contingencies of baseball and football stadiums or a multiuse
22 stadium.

23 2. To exceed the following limits set forth below, the
24 Authority shall obtain the authorization of the Board of Public Works and notify the
25 Legislative Policy Committee with accompanying justification:

26 A. \$85 million in bonds which constitutes tax supported debt
27 of the State for the purposes of site acquisition and preparation, relocation,
28 demolition and removal at, and construction and related expenses for construction
29 management, professional fees, and contingencies for Camden Yards;

30 B. \$70 million in bonds which constitutes tax supported debt
31 of the State for the purposes of site work, construction and related expenses for
32 construction management, professional fees, and contingencies of a baseball stadium;

33 C. \$80 million in bonds which constitutes tax supported debt
34 of the State for the purposes of site work, construction and related expenses for
35 construction management, professional fees, and contingencies of a football stadium;
36 and

37 D. \$195 million in bonds which constitutes tax supported
38 debt of the State for the purposes of the site acquisition and preparation, relocation,
39 demolition and removal, construction and related expenses for construction
40 management, professional fees, and contingencies of a multiuse stadium.

1 (iii) Unless authorized by the General Assembly, the Board of Public
2 Works may not give approval to an issuance by the Authority of bonds which
3 constitute tax supported debt of the State for Baltimore Convention Center facilities
4 if, after issuance, there would be outstanding and unpaid more than \$55 million face
5 amount of such bonds, whether taxable or tax exempt, for the purpose of financing
6 acquisition, construction, renovation, and related expenses for construction
7 management, professional fees, and contingencies of Baltimore Convention Center
8 facilities.

9 (iv) Unless authorized by the General Assembly, the Board of Public
10 Works may not give approval to an issuance by the Authority of bonds that constitute
11 tax supported debt of the State for Ocean City Convention Center facilities if, after
12 issuance, there would be outstanding and unpaid more than \$17,340,000 face amount
13 of such bonds, whether taxable or tax exempt, for the purpose of financing
14 acquisition, construction, renovation, and related expenses for construction
15 management, professional fees, and contingencies of Ocean City Convention Center
16 facilities.

17 (v) Unless authorized by the General Assembly, the Board of Public
18 Works may not give approval to an issuance by the Authority of bonds that constitute
19 tax supported debt of the State for the Montgomery County Conference Center facility
20 if, after issuance, there would be outstanding and unpaid more than \$23,185,000 face
21 amount of such bonds, whether taxable or tax exempt, for the purpose of financing
22 acquisition, construction, and related expenses for construction management,
23 professional fees, and contingencies of the Montgomery County Conference Center.

24 (vi) Unless authorized by the General Assembly, the Board of Public
25 Works may not give approval to an issuance by the Authority of bonds that constitute
26 tax supported debt of the State for the Hippodrome Performing Arts Center facility if,
27 after issuance, there would be outstanding and unpaid more than [~~\$12,000,000~~
28 ~~\$14,000,000~~ \$20,250,000] face amount of such bonds, whether taxable or tax exempt, for
29 the purpose of financing acquisition, construction, and related expenses for
30 construction management, professional fees, and contingencies of the Hippodrome
31 Performing Arts Center facility.

32 13-712.1.

33 The Authority may not close on the sale of bonds which constitute tax supported
34 debt of the State, and may not otherwise borrow money in amounts exceeding \$35,000
35 per year, to finance any segment of a facility unless the Authority:

36 (1) Has certified to the Legislative Policy Committee and the Board of
37 Public Works that the Authority has endeavored to maximize private investment in
38 the sports facility or in the Hippodrome Performing Arts Center facility proposed to be
39 financed and, with respect to a baseball or football stadium, to maximize the State's
40 ability to assure that the professional baseball and football franchises will remain
41 permanently in Maryland. This certification shall be supported by a detailed report
42 outlining these efforts;

1 (2) Has provided to the fiscal committees of the General Assembly, at
2 least 30 days prior to seeking approval of the Board of Public Works for each bond
3 issue or other borrowing, a comprehensive financing plan for the relevant segment of
4 the facility and the effect of this financing plan on financing options for other
5 segments of the facility, including anticipated revenues from private investment
6 where applicable;

7 (3) Has obtained the approval of the Board of Public Works of the
8 proposed bond issue and the plan for financing;

9 (4) Has secured, as approved by the Board of Public Works, either:

10 (i) With respect to site acquisition and the construction of a
11 baseball stadium, a long-term lease for a major league professional baseball team; or

12 (ii) Subject to § 13-715.3 of this subtitle, with respect to site
13 acquisition and the construction of a football stadium, a franchise for a National
14 Football League team and a long-term lease which shall include a provision requiring
15 the football team that leases the stadium to agree to reimburse the Authority for \$24
16 million in stadium construction costs including the construction, fitting out, and
17 furnishing of the private suites that are part of the football stadium, on the terms and
18 conditions determined by the Authority;

19 (5) With respect to site acquisition and construction of a Baltimore
20 Convention Center facility, has secured, as approved by the Board of Public Works:

21 (i) A lease or other written agreement with Baltimore City
22 pursuant to which:

23 1. Baltimore City agrees to pay \$50,000,000 for the capital
24 costs of the expansion of the Baltimore Convention Center not later than the date of
25 the Authority's bond issuance as authorized under § 13-712(a)(1) of this subtitle; and

26 2. Baltimore City and the Authority will each own a 50%
27 leasehold interest as tenants in common in the improvements comprising the existing
28 Baltimore Convention Center and the Baltimore Convention Center expansion for the
29 duration of any bonds issued as authorized under § 13-712(a)(1) of this subtitle, with
30 neither Baltimore City nor the Authority entitled to sell, assign, mortgage, pledge, or
31 encumber the Baltimore Convention Center facility (or any leasehold interest therein)
32 without the prior consent of the other, except for liens in favor of Baltimore City's and
33 the Authority's respective bondholders;

34 (ii) A deed, lease, or written agreement with Baltimore City
35 permitting the Authority to design and construct, or contract for the design and
36 construction of, the Baltimore Convention Center facility, and to pledge the Baltimore
37 Convention Center facility and the Baltimore Convention Center site or the leasehold
38 interest therein, as security for the Authority's bonds; and

39 (iii) A written agreement with Baltimore City:

1 1. Whereby Baltimore City agrees to operate the Baltimore
2 Convention Center facility in a manner which maximizes the Baltimore Convention
3 Center's economic return and to maintain and repair the Baltimore Convention
4 Center facility so as to keep the Baltimore Convention Center facility in first class
5 operating condition; and

6 2. That includes provisions that:

7 A. Protect the Authority's, the State's and the City's
8 respective investment in the Baltimore Convention Center facility;

9 B. Require the Authority and Baltimore City to each
10 contribute to operating deficits and a capital improvement reserve fund, for the
11 period beginning upon the completion of the expanded and renovated Baltimore
12 Convention Center facility and ending on June 30, 2008, as follows:

13 I. The Authority shall contribute two-thirds and Baltimore
14 City shall contribute one-third to annual operating deficits;

15 II. The Authority and Baltimore City shall each annually
16 contribute \$200,000 to the Capital Improvement Reserve Fund; and

17 III. Baltimore City shall be solely responsible for all operating
18 deficits and capital improvements:

19 1. Prior to the completion of the expanded and renovated
20 Baltimore Convention Center facility; and

21 2. After June 30, 2008; and

22 C. Provide for remedies upon default which include the right
23 of the Authority or the State, in the event of a material default by Baltimore City
24 which has not been corrected after a reasonable notice and cure period, to
25 immediately assume responsibility for maintenance and repairs of the Baltimore
26 Convention Center facility and offset the costs of such maintenance and repairs
27 against other amounts owed by the Authority or the State to Baltimore City, whether
28 under the operating agreement with Baltimore City or otherwise;

29 (6) With respect to site acquisition and construction of an Ocean City
30 Convention Center facility, has secured, as approved by the Board of Public Works:

31 (i) A lease or other written agreement with Ocean City pursuant to
32 which:

33 1. Ocean City agrees to issue bonds not later than the date of
34 the Authority's bond issuance as authorized under § 13-712(a)(1) of this subtitle and
35 to contribute \$14,700,000 of the proceeds from the sale of the bonds for the capital
36 costs of the expansion of the Ocean City Convention Center;

1 facility and continuing during the period that the Authority's Ocean City Convention
2 Center facility bonds are outstanding, as follows:

3 I. The Authority shall contribute one-half and Ocean City
4 shall contribute one-half to annual operating deficits;

5 II. The Authority and Ocean City shall each annually
6 contribute \$50,000 to an appropriate Capital Improvement Reserve Fund; and

7 III. Ocean City shall be solely responsible for all operating
8 deficits and capital improvements prior to the completion of the expanded and
9 renovated Ocean City Convention Center facility and after the repayment of the
10 Authority's Ocean City Convention Center facility bonds; and

11 C. Provide for remedies upon default which include the right
12 of the Authority, in the event of a material default by Ocean City which has not been
13 corrected after a reasonable notice and cure period, to immediately assume
14 responsibility for maintenance and repairs of the Ocean City Convention Center
15 facility and offset the costs of such maintenance and repairs against other amounts
16 owed by the Authority to Ocean City, whether under the operating agreement with
17 Ocean City or otherwise;

18 (7) With respect to site acquisition and construction of the Montgomery
19 County Conference Center facility, has secured, as approved by the Board of Public
20 Works:

21 (i) A lease or other written agreement with Montgomery County
22 pursuant to which:

23 1. Montgomery County agrees to contribute \$13,196,000 for
24 the capital costs of construction of the Montgomery County Conference Center not
25 later than the date of the Authority's bond issuance as authorized under § 13-712
26 (a)(1) of this subtitle;

27 2. The Authority agrees to issue bonds as authorized under §
28 13-712(a)(1) of this subtitle and to contribute \$20,304,000 of the proceeds from the
29 sale of the bonds for the capital costs of the construction of the Montgomery County
30 Conference Center;

31 3. Montgomery County and the Authority agree that if the
32 actual capital costs for the construction of the Montgomery County Conference Center
33 are less than \$33,500,000, the savings will be allocated:

34 A. One-half to the Authority; and

35 B. One-half to Montgomery County;

36 4. Montgomery County and the Authority agree that if the
37 actual capital costs for the construction of the Montgomery County Conference Center
38 are more than \$33,500,000, the excess will be shared:

- 1 A. One-half by the Authority; and
- 2 B. One-half by Montgomery County;
- 3 5. Montgomery County agrees to purchase the land for the
4 Montgomery County Conference Center site as defined in § 13-701(o) of this subtitle,
5 on which the Montgomery County Conference Center will be constructed; and
- 6 6. Montgomery County and the Authority will each own a
7 50% leasehold interest as tenants in common in the Montgomery County Conference
8 Center facility for the duration of any bonds issued as authorized under §
9 13-712(a)(1) of this subtitle, with neither Montgomery County nor the Authority
10 entitled to sell, assign, mortgage, pledge, or encumber the Montgomery County
11 Conference Center facility (or any leasehold interest therein) without the prior
12 consent of the other, except for liens in favor of the Authority's respective bondholders;
- 13 (ii) A deed, lease, or written agreement with Montgomery County
14 permitting the Authority to design, construct, and equip, or contract for the design,
15 construction, and equipping of the Montgomery County Conference Center facility,
16 and to pledge the Montgomery County Conference Center facility and the
17 Montgomery County Conference Center site or the leasehold interest therein, as
18 security for the Authority's bonds;
- 19 (iii) A written agreement with Montgomery County:
- 20 1. Whereby Montgomery County agrees:
- 21 A. To market, promote, and operate or contract for the
22 marketing, promotion, and operation of the Montgomery County Conference Center
23 facility in a manner which maximizes the Montgomery County Conference Center's
24 economic return to the community; and
- 25 B. To maintain and repair or contract for the maintenance
26 and repair of the Montgomery County Conference Center facility so as to keep the
27 Montgomery County Conference Center facility in first class operating condition; and
- 28 2. That includes provisions that:
- 29 A. Protect the Authority's and Montgomery County's
30 respective investment in the Montgomery County Conference Center facility;
- 31 B. Require Montgomery County to contribute to a capital
32 improvement reserve fund in an amount sufficient to keep the Conference Center in
33 first class operating condition;
- 34 C. I. Require Montgomery County to be solely responsible
35 for all expenditures relating to the operation of the Conference Center facilities,
36 including net operating deficits (the amount by which expenditures exceed revenues)
37 that may be incurred; and

1 II. Allow Montgomery County to keep all operating profits
2 resulting from the operation of the Montgomery County Conference Center for all
3 years; and

4 D. Provide for remedies upon default which include the right
5 of the Authority, in the event of a material default by Montgomery County which has
6 not been corrected after a reasonable notice and cure period, to immediately assume
7 responsibility for maintenance and repairs of the Montgomery County Conference
8 Center facility and offset the costs of such maintenance and repairs against other
9 amounts owed by the Authority to Montgomery County, whether under the operating
10 agreement with Montgomery County or otherwise;

11 (iv) An agreement between Montgomery County and the Authority
12 for the Authority to select through a cooperative procurement agreement one or more
13 contractors to develop, design, construct, operate, and manage the Montgomery
14 County Conference Center facilities during the period that the Authority's
15 Montgomery County Conference Center facilities bonds are outstanding;

16 (v) An agreement between Montgomery County and the Authority
17 that may allow for the establishment of a board of directors to manage the
18 Montgomery County Conference Center, that provides that the board of directors may
19 include representatives of the Authority, Montgomery County, the private developer,
20 and the community, and that provides that unless action is taken to create a joint
21 venture, corporation, or other legal entity, the board of directors is not a separate
22 legal entity;

23 (vi) An agreement among Montgomery County, the Authority, and a
24 private developer for the acquisition, construction, and operation of a hotel adjacent
25 to the Montgomery County Conference Center and providing for a capital
26 commitment from such developer for such hotel and, as appropriate, shared facilities;
27 and

28 (8) With respect to site acquisition and construction of the Hippodrome
29 Performing Arts Center facility, has secured, as approved by the Board of Public
30 Works:

31 (i) One or more written agreements establishing commitments for
32 payments to the Authority of amounts which shall be used by the Authority to fund
33 the [\$56,000,000] \$60,000,000 of total ACQUISITION AND capital costs of construction
34 of the Hippodrome Performing Arts Center facility and pursuant to which:

35 1. Baltimore City agrees to pay \$6,000,000, \$2,000,000 of
36 which shall be deposited to the Hippodrome Performing Arts Center Financing Fund
37 by July 1, 2000, and \$4,000,000 of which either shall be deposited to the Hippodrome
38 Performing Arts Center Financing Fund by not later than the date of the Authority's
39 bond issuance as authorized under § 13-712(a)(1) of this subtitle or which shall be
40 deposited to the Hippodrome Performing Arts Center Financing Fund in \$2,000,000
41 increments in each of the next 2 succeeding years from the proceeds of bond issuances

1 4. To be solely responsible for all expenditures relating to the
 2 operation, maintenance, and repair of the Hippodrome Performing Arts Center
 3 facility, including net operating deficits (the amount by which expenditures exceed
 4 revenues) that may be incurred.

5 **Article 83B - Department of Housing and Community Development**

6 5-801.

7 (a) (4) (ii) "Certified heritage structure" does not include a structure that
 8 is owned by the State, a political subdivision of the State, or the federal government[,
 9 other than a structure located on the Hippodrome site, as defined in § 13-701 of the
 10 Financial Institutions Article].

11 [(f) (1) In this subsection, "Authority affiliate" has the meaning stated in §
 12 13-701(t) of the Financial Institutions Article.

13 (2) As authorized under § 13-708 of the Financial Institutions Article,
 14 the Maryland Stadium Authority or an Authority affiliate may transfer to any
 15 business entity or individual any credit under this section for qualified rehabilitation
 16 expenditures of the Maryland Stadium Authority or an Authority affiliate.

17 (3) A business entity or individual to whom any credit is transferred by
 18 the Maryland Stadium Authority or an Authority affiliate under this subsection may
 19 claim a tax credit under this section in the full amount of the credit transferred.]

20 **Article - Tax - General**

21 10-207.

22 [(u) The subtraction under subsection (a) of this section includes any amount
 23 received by any Authority affiliate, as defined in § 13-701(t) of the Financial
 24 Institutions Article, in consideration of the transfer of the credit allowed under Article
 25 83B, § 5-801(f) of the Code.]

26 10-307.

27 (g) The subtraction under subsection (a) of this section includes the amounts
 28 allowed to be subtracted for an individual under:

29 (1) § 10-207(i) of this title (Profits on sale or exchange of State or local
 30 bonds);

31 (2) § 10-207(k) of this title (Relocation and assistance payments);

32 (3) § 10-207(m) of this title (State or local income tax refunds); OR

33 (4) § 10-207(c-1) of this title (State tax exempt interest from mutual
 34 funds)]; or

1 (5) § 10-207(u) of this title (Amounts received by Stadium Authority
2 affiliate in consideration of transfer of certified rehabilitation credit).

3 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any
4 other provision of law, the Maryland Heritage Structure Rehabilitation Tax Credit
5 under Article 83B, § 5-801 of the Code may not be claimed with respect to the
6 construction or development of any structure located on the Hippodrome Performing
7 Arts Center site, as defined in § 13-701 of the Financial Institutions Article.

8 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
9 effect June 1, 2002.