

SENATE BILL 316

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2003 Regular Session
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By: **Senator Lawlah (Joint Committee on the Management of Public Funds)**
and Senators Forehand, Haines, and McFadden

Introduced and read first time: January 31, 2003

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2003

CHAPTER _____

1 AN ACT concerning

2 **General Obligation Bonds - Termination of Authorization**

3 FOR the purpose of providing for the termination of authority to spend certain
4 appropriations for certain capital expenditures after a certain period;
5 establishing certain exceptions to the termination of authority to spend certain
6 appropriations; clarifying that the authority to spend certain appropriations
7 terminates if a certain matching fund requirement is not met; prescribing
8 certain enabling act language requiring the expenditure or encumbrance of
9 certain money within a certain period; providing for the automatic termination
10 of the authorization of State debt under certain circumstances and establishing
11 certain exceptions; requiring a certain annual report; providing for the
12 cancellation of certain State debt authorizations and the disposition of certain
13 unspent bond proceeds; providing for the application of this Act; and generally
14 relating to the termination of authorization of State debt and the disposition of
15 terminated authorizations and unspent loan proceeds.

16 BY repealing and reenacting, with amendments,
17 Article - State Finance and Procurement
18 Section 7-305, 8-117, 8-128, and 8-129
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

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

1 **Article - State Finance and Procurement**

2 7-305.

3 (a) In this section, "capital expenditure" includes an expenditure for:

4 (1) acquisition of land, buildings, or equipment; or

5 (2) new construction.

6 (b) At the end of a fiscal year, the unspent part of an appropriation for a
7 capital expenditure made through the State budget or a supplementary appropriation
8 act other than an enabling act for a general obligation loan:

9 (1) does not revert to the General Fund; and

10 (2) with the approval of the Board of Public Works, may be carried in a
11 capital account until it is spent in accordance with subsection (c) of this section or
12 until the authority to spend the appropriation for a project terminates.13 (c) Money carried in a capital account under subsection (b) of this section may
14 be spent only for a capital purpose.15 (d) Unless otherwise provided by law, the authority to spend the appropriation
16 for a project terminates:17 (1) 2 years after the effective date of the appropriation act that
18 authorizes the project, if:19 (I) EVIDENCE THAT A REQUIRED MATCHING FUND WILL BE
20 PROVIDED HAS NOT BEEN PRESENTED TO THE BOARD; OR21 (II) no part of the project is under contract and the Board has not
22 [committed the money] ENCUMBERED MONEY for any part of the project; [or]23 (2) 1 year after the latest of abandonment, completion, or acceptance of
24 the project; OR25 (3) EXCEPT TO THE EXTENT THE BOARD HAS ENCUMBERED MONEY FOR
26 A STATE PROJECT OR PROGRAM AUTHORIZED BY AN APPROPRIATION ACT, 7 YEARS
27 AFTER THE EFFECTIVE DATE OF THE APPROPRIATION ACT THAT AUTHORIZED THE
28 PROJECT UNLESS:

29 (I) THE APPROPRIATION ACT PROVIDES OTHERWISE; OR

30 (II) IN AN EMERGENCY, THE BOARD UNANIMOUSLY GRANTS A
31 TEMPORARY EXCEPTION FOR 1 YEAR.

32 8-117.

33 (a) The General Assembly may authorize the Board to:

1 (1) borrow money for any public purpose; and

2 (2) issue State bonds to evidence the debt.

3 (b) An enabling act shall specify the total principal amount of the debt
4 authorized by the enabling act.

5 (c) An enabling act may take substantially the following form:

6 "A BILL ENTITLED

7 AN ACT concerning

8 Creation of a State Debt - (Name of Project)

9 FOR the purpose of authorizing the creation of a State debt not to exceed \$....., (for an
10 enabling act that requires an equal matching fund)/ in the amount of \$....., (for
11 an enabling act that requires no matching fund or a lesser matching fund) the
12 proceeds to be used as a grant to (name of grantee) for certain development
13 or improvement purposes; providing for disbursement of the loan proceeds,
14 subject to the requirement that the grantee provide and expend a matching fund
15 (if the enabling act requires a matching fund); and providing generally for the
16 issuance and sale of bonds evidencing the loan.

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That:

19 (1) The Board of Public Works may borrow money and incur indebtedness on
20 behalf of the State of Maryland through a State loan to be known as the ... (name of
21 project) Loan of ... (year) equal to the lesser of (i) \$... or (ii) the amount of the matching
22 fund provided in accordance with Section 1(5) below. (For an enabling act that
23 requires an equal matching fund)/ in the total principal amount of \$..... (for an
24 enabling act that requires no matching fund or a lesser matching fund). This loan
25 shall be evidenced by the issuance, sale, and delivery of State general obligation
26 bonds authorized by a resolution of the Board of Public Works and issued, sold, and
27 delivered in accordance with §§ 8-117 through 8-124 of the State Finance and
28 Procurement Article and Article 31, § 22 of the Code.

29 (2) The bonds to evidence this loan or installments of this loan may be sold as
30 a single issue or may be consolidated and sold as part of a single issue of bonds under
31 § 8-122 of the State Finance and Procurement Article.

32 (3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer
33 and first shall be applied to the payment of the expenses of issuing, selling, and
34 delivering the bonds, unless funds for this purpose are otherwise provided, and then
35 shall be credited on the books of the Comptroller and expended, on approval by the
36 Board of Public Works, for the following public purposes, including any applicable
37 architects' and engineers' fees: as a grant to (name of grantee) (referred to
38 hereafter in this act as "the grantee") (for an enabling act that requires a matching

1 fund) for (here state the purpose or purposes to which the proceeds of the bonds are to
2 be applied).

3 (4) An annual State tax is imposed on all assessable property in the State in
4 rate and amount sufficient to pay the principal of and interest on the bonds, as and
5 when due and until paid in full. The principal shall be discharged within 15 years
6 after the date of issue of the bonds.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, (year)".

9 (d) (1) If an enabling act requires an equal matching fund, the fifth
10 paragraph is as follows:

11 "(5) Prior to the payment of any funds under the provisions of this Act for the
12 purposes set forth in Section 1(3) above, the grantee shall provide and expend a
13 matching fund. No part of the grantee's matching fund may be provided, either
14 directly or indirectly, from funds of the State, whether appropriated or
15 unappropriated. No part of the fund may consist of real property, in kind
16 contributions, or funds expended prior to the effective date of this Act. In case of any
17 dispute as to the amount of the matching fund or what money or assets may qualify
18 as matching funds, the Board of Public Works shall determine the matter and the
19 Board's decision is final. The grantee has until June 1, ... (2 years from the effective
20 date of the Act), to present evidence satisfactory to the Board of Public Works that a
21 matching fund will be provided. If satisfactory evidence is presented, the Board shall
22 certify this fact and the amount of the matching fund to the State Treasurer, and the
23 proceeds of the loan equal to the amount of the matching fund shall be expended for
24 the purposes provided in this Act. Any amount of the loan in excess of the amount of
25 the matching fund certified by the Board of Public Works shall be canceled and be of
26 no further effect."

27 (2) If an enabling act requires a lesser matching fund, the fifth
28 paragraph is as follows:

29 "(5) Prior to the payment of any funds under the provisions of this Act for the
30 purposes set forth in Section 1(3) above, the grantee shall provide and expend a
31 matching fund of \$..., (amount of the matching fund to be provided by the grantee).
32 No part of the grantee's matching fund may be provided, either directly or indirectly,
33 from funds of the State, whether appropriated or unappropriated. No part of the fund
34 may consist of real property, in kind contributions, or funds expended prior to the
35 effective date of this Act. In case of any dispute as to the amount of the matching fund
36 or what money or assets may qualify as matching funds, the Board of Public Works
37 shall determine the matter and the Board's decision is final. The grantee has until
38 June 1, ... (2 years from the effective date of the Act), to present evidence satisfactory
39 to the Board of Public Works that a matching fund will be provided. If satisfactory
40 evidence is presented, the Board shall certify this fact to the State Treasurer, and the
41 proceeds of the loan shall be expended for the purposes provided in this Act."

42 (E) AN ENABLING ACT MAY ALSO CONTAIN THE FOLLOWING PARAGRAPH:

1 "THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE
 2 BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER
 3 THAN JUNE 1, (7 YEARS FROM THE EFFECTIVE DATE OF THE ACT). IF ANY FUNDS
 4 AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE
 5 1, (7 YEARS FROM THE EFFECTIVE DATE OF THE ACT), THE AMOUNT OF THE
 6 UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE
 7 OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE
 8 AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE
 9 DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT
 10 ARTICLE."

11 [(e)] (F) An enabling act under this section may contain:

12 (1) an additional provision for all or part of the principal of and interest
 13 on the State bonds issued under the enabling act to be paid primarily from sources of
 14 funds other than a State tax on assessable property; and

15 (2) any other additional provision that is appropriate to the purpose of
 16 the enabling act and the nature of State bonds.

17 8-128.

18 (a) If, within 2 years after the date of an authorization of State debt,
 19 EVIDENCE THAT A REQUIRED MATCHING FUND WILL BE PROVIDED HAS NOT BEEN
 20 PRESENTED TO THE BOARD OR no part of the project or program for which the
 21 enabling act authorized the State debt is under contract and the Board has not
 22 [committed] ENCUMBERED money for any part of the project or program, the
 23 authorization terminates unless:

24 (1) the enabling act provides otherwise; or

25 (2) in an emergency, the Board unanimously grants a temporary
 26 exception for a period of 1 year.

27 (B) UNLESS OTHERWISE PROVIDED IN AN ENABLING ACT, AN
 28 AUTHORIZATION OF STATE DEBT FOR A PROJECT OR PROGRAM SHALL TERMINATE
 29 NO LATER THAN 1 YEAR AFTER THE ABANDONMENT, COMPLETION, OR ACCEPTANCE
 30 OF THE PROJECT OR PROGRAM, AS DETERMINED BY THE BOARD.

31 (C) EXCEPT TO THE EXTENT THAT MONEY AUTHORIZED BY AN ENABLING ACT
 32 FOR A STATE PROJECT OR PROGRAM HAS BEEN ENCUMBERED BY THE BOARD, AN
 33 AUTHORIZATION OF STATE DEBT SHALL AUTOMATICALLY TERMINATE 7 YEARS
 34 AFTER THE DATE OF THE AUTHORIZATION, UNLESS:

35 ~~(1)~~ (1) THE ENABLING ACT PROVIDES OTHERWISE; OR

36 ~~(2)~~ (2) IN AN EMERGENCY, THE BOARD UNANIMOUSLY GRANTS A
 37 TEMPORARY EXCEPTION FOR 1 YEAR.

1 (D) IF BONDS HAVE NOT BEEN ISSUED, THE AMOUNT OF ANY UNISSUED
2 BONDS FROM A TERMINATED AUTHORIZATION SHALL BE CANCELED AND BE OF NO
3 FURTHER EFFECT.

4 (E) IF BONDS HAVE BEEN ISSUED, THE AMOUNT OF ANY UNSPENT BOND
5 PROCEEDS FROM A TERMINATED AUTHORIZATION SHALL BE DISPOSED OF AS
6 PROVIDED IN § 8-129 OF THIS ARTICLE.

7 [(b)] (F) (1) The Board shall enforce the provisions of this section.

8 (2) A FAILURE TO COMPLY WITH OR GIVE EFFECT TO THE PROVISIONS
9 OF THIS SECTION MAY NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF STATE
10 DEBT.

11 [(c)] (G) The Board shall submit for publication in the Maryland Register a
12 notice of any authorization of State debt that has been terminated or extended under
13 this section; the notice shall include the chapter number and year of enactment of the
14 enabling act and each amendment to the enabling act.

15 [(d)] (H) A termination or extension under this section may become effective
16 only after the publication of notice in the Maryland Register.

17 (I) (1) THE TREASURER, IN CONSULTATION WITH THE COMPTROLLER,
18 SHALL SUBMIT A REPORT ON JANUARY 1 EACH YEAR TO THE GOVERNOR AND, IN
19 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
20 ASSEMBLY.

21 (2) THE REPORT SHALL LIST ALL PROJECTS OR PROGRAMS FOR WHICH
22 AUTHORIZATION WOULD BE TERMINATED IN THE UPCOMING YEAR UNDER THE
23 PROVISIONS IN THIS SECTION OR § 7-305 OF THIS ARTICLE.

24 8-129.

25 (a) With the approval of the Board, the Governor shall dispose of unspent
26 proceeds of an enabling act within 1 year after the [later of abandonment,
27 completion, or acceptance of a project or program for which an enabling act
28 authorized State debt] TERMINATION OF THE STATE DEBT AUTHORIZATION UNDER §
29 8-128 OF THIS SUBTITLE.

30 (b) The Governor shall:

31 (1) use the proceeds to reduce State debt authorizations, as provided in §
32 8-126(b) through (d) of this subtitle;

33 (2) allocate the proceeds to the Construction Contingency Fund, as
34 provided in § 3-609 of this article; or

35 (3) order the proceeds to be credited to the Annuity Bond Fund, to pay
36 the outstanding bonded indebtedness of the State.

1 (c) The Board shall enforce the provisions of this section.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
3 State debt authorized by enabling acts enacted on or after June 1, 1997.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the authorization for all
5 State debt authorized by enabling acts enacted before June 1, 1997 shall be deemed to
6 automatically terminate in accordance with the provisions of this Act on June 1, 2004,
7 rather than 7 years after the date of authorization.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 June 1, 2003.