

SENATE BILL 319

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B5

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 and County Debt - Variable Interest Rate Bonds and**
3 **Interest Rate Exchange Agreements**

4 FOR the purpose of authorizing certain State bonds to be sold at a private, negotiated
5 sale; allowing State bonds to be issued in a variable interest rate form;
6 authorizing the Treasurer to appoint and contract with and specify certain
7 rights and duties of certain agents; authorizing the Board of Public Works to
8 designate and sell certain State bonds as variable interest rate bonds; setting a
9 certain limit on the aggregate par value of outstanding variable interest rate
10 State bonds; authorizing the Treasurer to enter into certain interest rate
11 exchange agreements under certain circumstances; authorizing county
12 governing bodies to enter into certain interest rate exchange agreements under
13 certain circumstances; and generally relating to variable interest rate bonds and
14 interest rate exchange agreements.

15 BY repealing and reenacting, with amendments,
16 Article - State Finance and Procurement
17 Section 8-120, 8-121, and 8-123
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2002 Supplement)

20 BY adding to
21 Article - State Finance and Procurement
22 Section 8-123.4 and 8-136
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2002 Supplement)

1 BY adding to
2 Article 31 - Debt - Public
3 Section 34
4 Annotated Code of Maryland
5 (1997 Replacement Volume and 2002 Supplement)

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

8 **Article - State Finance and Procurement**

9 8-120.

10 By resolution, the Board may provide that the State bonds authorized by an
11 enabling act:

- 12 (1) be in 1 or more series;
- 13 (2) bear a certain date of issue;
- 14 (3) be executed in a certain manner;
- 15 (4) be sold in a certain manner at public OR PRIVATE, NEGOTIATED sale;
- 16 (5) be in certain denominations, not necessarily in equal paramounts;
- 17 (6) mature in certain amounts at certain times, not necessarily in
18 consecutive annual installments, but not later than 15 years after their respective
19 dates of issue;
- 20 (7) bear interest at certain rates or at rates to be determined in the
21 manner stated in the resolution; and
- 22 (8) be paid, as to principal and interest, at certain places.

23 8-121.

24 (a) By resolution, the Board may specify the form in which State bonds are to
25 be issued, including:

- 26 (1) a coupon form;
- 27 (2) a capital appreciation form;
- 28 (3) A VARIABLE INTEREST RATE FORM;
- 29 [(3)] (4) a form that qualifies as a registered form under §§ 103 and 149
30 of the Internal Revenue Code or a regulation proposed or adopted under those
31 sections; and

1 [(4)] (5) any other registered form.

2 (b) (1) Whenever the Board provides for the sale of State bonds in registered
3 form, the Board may establish procedures for the registration and transfer of the
4 State bonds.

5 (2) The Board may exercise any other power that relates to issuance of
6 State bonds in registered form and that is not conferred on the Treasurer.

7 (c) Whenever the Board provides for the sale of State bonds in registered
8 form, the Treasurer may:

9 (1) appoint any agent, including an authenticating trustee, corporate
10 trustee, paying agent, registrar, or transfer agent, or use the agent appointed under §
11 8-135 of this subtitle;

12 (2) specify the rights, duties, and compensation of the agent; and

13 (3) in connection with the establishment and maintenance of a central
14 depository system for the transfer or pledge of the State bonds, make agreements
15 with:

16 (i) custodian banks and their nominees; or

17 (ii) financial intermediaries and their nominees.

18 (D) WHENEVER THE BOARD PROVIDES FOR THE SALE OF STATE BONDS IN
19 VARIABLE INTEREST RATE FORM, THE TREASURER MAY:

20 (1) APPOINT ANY AGENT OR OTHER CONTRACTING PARTY, INCLUDING
21 AN UNDERWRITER, REMARKETING AGENT, DEALER, TENDER AGENT, INSURER,
22 LIQUIDITY PROVIDER, OR SIMILAR ENTITY; AND

23 (2) SPECIFY THE RIGHTS, DUTIES, AND COMPENSATION OF AND MAKE
24 AGREEMENTS WITH THE AGENT OR OTHER CONTRACTING PARTY.

25 8-123.

26 (a) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE Board
27 shall offer State bonds at a public sale.

28 (b) (1) At least 10 days before the date of a public sale, the Board shall give
29 public notice of the sale.

30 (2) The notice shall state the date, time, and place of the public sale.

31 (c) (1) Except as provided in paragraph (2) of this subsection, at a public
32 sale, the Board shall sell State bonds for cash to the responsible bidder who:

33 (i) offers the lowest net interest cost to the State; or

1 (ii) meets other terms or conditions of sale or issuance that the
2 Board has set.

3 (2) Whenever the Board determines that no bid is satisfactory and that it
4 is in the best interests of the State to reject all bids, the Board may reject the bids.

5 (d) (1) By resolution, the Board may postpone the time for receipt of
6 proposals for the bonds without republishing the form of advertisement for the bonds.

7 (2) (i) The Treasurer shall provide notice of the new date and time of
8 sale not less than 24 hours prior to the time proposals are to be submitted, which date
9 may not be more than 30 days after the originally scheduled date of sale.

10 (ii) The notice may be given by Munifacts News Service or a similar
11 service or such other method as the Treasurer deems appropriate.

12 8-123.4.

13 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN
14 ACCORDANCE WITH THE AUTHORITY TO ISSUE VARIABLE INTEREST RATE BONDS
15 UNDER § 8-121 OF THIS SUBTITLE, THE BOARD, IN A RESOLUTION SETTING FORTH
16 THE TERMS AND CONDITIONS OF A STATE BOND ISSUE, MAY DESIGNATE THAT ALL
17 OR A PORTION OF THE STATE BONDS BE ISSUED AS VARIABLE INTEREST RATE
18 BONDS.

19 (B) THE BOARD MAY SELL VARIABLE INTEREST RATE BONDS AT A PRIVATE,
20 NEGOTIATED SALE ON THE TERMS AND CONDITIONS THAT THE BOARD DETERMINES
21 TO BE MOST ADVANTAGEOUS TO THE STATE.

22 (C) AT THE TIME OF ISSUANCE, THE AGGREGATE PAR VALUE OF THE STATE'S
23 GENERAL OBLIGATION VARIABLE INTEREST RATE BONDS SHALL COMPRISE NO
24 MORE THAN 15% OF THE OUTSTANDING GENERAL OBLIGATION INDEBTEDNESS OF
25 THE STATE.

26 8-136.

27 IF THE BOARD HAS AUTHORIZED THE TRANSACTION AND APPROVED THE FORM
28 OF THE AGREEMENT, TO IMPROVE THE MANAGEMENT OF STATE GENERAL
29 OBLIGATION DEBT OR TO REDUCE THE COST OF SERVICING SUCH DEBT, AND AFTER
30 GIVING DUE CONSIDERATION TO THE CREDITWORTHINESS OF THE
31 COUNTERPARTIES, THE TREASURER MAY:

32 (1) ENTER INTO INTEREST RATE EXCHANGE AGREEMENTS OR
33 CONTRACTS PROVIDING FOR PAYMENTS BASED ON LEVELS OF OR CHANGES IN
34 INTEREST RATES; AND

35 (2) APPOINT ANY AGENTS NECESSARY TO IMPLEMENT AND ADMINISTER
36 SUCH AGREEMENTS OR CONTRACTS.

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Article 31 - Debt - Public2 34.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "BONDS" MEANS GENERAL OBLIGATION BONDS OR NOTES, REVENUE
6 BONDS OR NOTES, OR OTHER EVIDENCES OF OBLIGATIONS BY WHATEVER NAME
7 KNOWN OR SOURCE OF FUNDS SECURED, ISSUED BY A COUNTY.

8 (3) "COUNTY" MEANS ANY COUNTY IN THE STATE OR BALTIMORE CITY.

9 (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN
10 ADDITION TO ANY OTHER AUTHORITY, TO IMPROVE THE MANAGEMENT OF DEBT
11 SERVICE OR INTEREST RATE RISKS ON ITS BONDS OR TO REDUCE THE COST OF
12 SERVICING ITS BONDS, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE
13 GOVERNING BODY OF A COUNTY MAY ENACT, BY LOCAL LAW OR RESOLUTION,
14 AUTHORITY FOR THE COUNTY TO:

15 (I) ENTER INTO INTEREST RATE EXCHANGE AGREEMENTS OR
16 CONTRACTS PROVIDING FOR PAYMENTS BASED ON LEVELS OF OR CHANGES IN
17 INTEREST RATES, OR COMBINATIONS OF THE FOREGOING; AND

18 (II) APPOINT ANY AGENTS NECESSARY TO IMPLEMENT AND
19 ADMINISTER SUCH AGREEMENTS OR CONTRACTS.

20 (2) (I) A COUNTY THAT PROPOSES TO ENTER INTO ONE OR MORE
21 INTEREST RATE EXCHANGE AGREEMENTS OR CONTRACTS SHALL ENACT A LOCAL
22 LAW OR RESOLUTION THAT SHALL AUTHORIZE THE TRANSACTION UPON THE TERMS
23 AND CONDITIONS ESTABLISHED BY THE COUNTY IN THE LAW OR RESOLUTION.

24 (II) 1. IN THE LAW OR RESOLUTION THAT AUTHORIZES THE
25 TRANSACTION OR IN A SEPARATE RESOLUTION, THE COUNTY MAY PROVIDE FOR THE
26 FINAL FORM OF THE AGREEMENT OR CONTRACT AND THE FINAL TERMS AND
27 PROVISIONS OF THE AGREEMENT OR CONTRACT, AFTER GIVING DUE
28 CONSIDERATION TO THE CREDITWORTHINESS OF THE COUNTERPARTY OR
29 COUNTERPARTIES.

30 2. THE COUNTY MAY DELEGATE TO AN OFFICER, OFFICIAL,
31 BOARD, OR AGENCY OF THE COUNTY SPECIFIED IN THE LAW OR RESOLUTION THE
32 POWER TO PROVIDE FOR THE FINAL FORM OF THE AGREEMENT OR CONTRACT AND
33 THE FINAL TERMS AND PROVISIONS OF THE AGREEMENT OR CONTRACT, AFTER
34 GIVING DUE CONSIDERATION TO THE CREDITWORTHINESS OF THE COUNTERPARTY
35 OR COUNTERPARTIES.

36 (3) AN INTEREST RATE EXCHANGE AGREEMENT OR CONTRACT MAY BE
37 ENTERED INTO IN CONNECTION WITH, OR INCIDENTAL TO, ANY BONDS OF THE
38 COUNTY PRIOR TO, AT THE TIME OF, OR SUBSEQUENT TO, THE ISSUANCE OF ANY OF
39 THOSE BONDS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2003.