
By: **Delegates Gordon, Healey, Hixson, and Howard**
Introduced and read first time: February 11, 2004
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Transportation - Special Bonds and Borrowings - Repeal of**
3 **Authority**

4 FOR the purpose of repealing certain provisions of law relating to the authority of the
5 Department of Transportation to issue special transportation project revenue
6 bonds and borrow funds, subject to certain requirements and in accordance with
7 certain procedures, to finance the cost of transportation facilities; providing for
8 the application of this Act; and generally relating to special bonds and
9 borrowings.

10 BY repealing

11 Article - Transportation
12 Section 3-601 through 3-607, inclusive, and the subtitle "Subtitle 6. Special
13 Bonds and Borrowings"
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2003 Supplement)

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

18 **Article - Transportation**

19 [Subtitle 6. Special Bonds and Borrowings.]

20 [3-601.

21 (a) In order to utilize to the greatest extent possible the benefits of available
22 financial resources relating to transportation purposes, including federal grants,
23 loans, and other programs, the Department from time to time may issue its bonds and
24 otherwise borrow funds, as provided in this subtitle, to finance the costs of
25 transportation facilities.

26 (b) The Department may apply for any financial assistance in support of
27 projects deemed appropriate by the Secretary.

1 (c) The Department may undertake the following actions and do all things
2 necessary and appropriate consistent with such actions to utilize the available
3 resources specified in subsection (a) of this section:

4 (1) Pledge and use existing and anticipated federal funds paid to or
5 expected to be paid to the Department for transportation purposes for the payment of
6 the principal of and interest on the Department's bonds or other debt obligations
7 issued under this subtitle to finance the costs of transportation facilities; and

8 (2) (i) Borrow funds from the federal government or its agencies, and
9 evidence such borrowing with a promissory note or other evidence of obligation;

10 (ii) Borrow funds from a nongovernment lender if the loan is
11 guaranteed by the federal government or its agencies; and

12 (iii) 1. Use the proceeds of the loans described in items (i) and (ii)
13 of this paragraph in connection with transportation facilities including use of the
14 proceeds to pay the costs of financing transportation facilities and the payment of
15 debt service on the Department's bonds issued in connection with such transportation
16 facilities;

17 2. Repay the loans with revenues attributable to the
18 transportation facilities being financed; and

19 3. Pledge revenues attributable to the transportation
20 facilities being financed in order to secure the Department's obligations to the federal
21 government or its agencies or a nongovernment lender in connection with the loans.]
22 [3-602.

23 (a) Bonds issued by the Department under this subtitle shall be known as
24 "special transportation project revenue bonds".

25 (b) A resolution authorizing the issuance of special transportation project
26 revenue bonds shall:

27 (1) Describe generally the transportation facilities to be financed by the
28 sale of bonds;

29 (2) State the estimated cost of financing these transportation facilities;
30 and

31 (3) With respect to the bonds, specify:

32 (i) The date of issue;

33 (ii) The date of each maturity, which may not be later than 30 years
34 after the date of issue;

35 (iii) The amount of each maturity, which need not be in equal
36 principal amounts or consecutive annual installments;

- 1 (iv) The rate of interest payable on the bonds, or the manner of
2 determining the rate of interest, and the date or dates of payment of interest;
- 3 (v) The tenor, form, denomination, manner of execution, and place
4 of payment of the principal of and interest on the bonds, which may be at any bank or
5 trust company within or without the State;
- 6 (vi) Whether the bonds are to be issued in coupon, registered or
7 book entry form and whether provision is to be made for the registration of the
8 principal only of coupon bonds, for the reconversion of fully registered bonds into
9 coupon form, and for the replacement of bonds that are mutilated, lost, or destroyed;
- 10 (vii) Whether the bonds are to be sold at public or private sale, as
11 determined by the Secretary;
- 12 (viii) If the bonds are to be sold at public sale:
- 13 1. The form of notice of sale, which shall outline the terms
14 and conditions of the sale; and
- 15 2. The form of advertisement of a summary notice of sale,
16 which shall be published at least once in an appropriate newspaper of general
17 circulation as determined by the Secretary;
- 18 (ix) Whether all or any part of the bonds are redeemable before
19 maturity and any terms, conditions, and prices of redemption; and
- 20 (x) Any other matter relating to the form, terms, conditions,
21 issuance, sale, and delivery of the bonds.
- 22 (c) (1) The resolution may provide that the Secretary may postpone the time
23 for receipt of proposals for the bonds without republishing the form of advertisement
24 for the bonds.
- 25 (2) (i) The Secretary shall provide notice of the new date and time of
26 sale not less than 24 hours prior to the time proposals are to be submitted, which date
27 may not be more than 30 days after the originally scheduled date of sale.
- 28 (ii) The notice may be given by TM3 News Service or a similar
29 service or any other method that the Secretary deems appropriate.
- 30 (d) (1) Special transportation project revenue bonds shall be executed on
31 behalf of the Department by the manual or facsimile signature of the Secretary.
- 32 (2) Other signatures on the bonds may be either manual or facsimile.
- 33 (3) If an individual whose manual or facsimile signature appears on any
34 bond or coupon ceases to serve in an authorized capacity before the delivery of the
35 bond, the signature nevertheless is as valid and sufficient for all purposes as if the
36 individual had remained in that capacity until delivery of the bond.

1 (e) Forty-five days before each issuance of bonds under this section, the
2 Department must report the proposed issuance to the Legislative Policy Committee
3 for review and comment.

4 (f) Each issue of special transportation project revenue bonds shall be
5 approved before sale by resolution of the Board of Public Works.]

6 [3-603.

7 (a) Notwithstanding any other provision of law or any recitals in the
8 instruments, the bonds, notes, and other evidences of obligation issued under this
9 subtitle are investment securities under the laws of this State.

10 (b) The bonds, notes, and other evidences of obligation issued under this
11 subtitle and their issuance and sale are exempt from the provisions of §§ 8-206 and
12 8-208 of the State Finance and Procurement Article.]

13 [3-604.

14 (a) The Department from time to time may issue its refunding bonds for
15 refunding any special transportation project revenue bonds.

16 (b) The powers granted and limitations imposed in this subtitle as to the
17 issuance of special transportation project revenue bonds also apply to the issuance of
18 refunding bonds.

19 (c) The State Treasurer shall segregate the proceeds of the sale of any
20 refunding bonds in a separate trust fund to be used only to pay the purchase or
21 redemption prices of the bonds to be refunded.]

22 [3-605.

23 (a) Before the preparation of definitive bonds, the Department may issue its
24 interim certificates or temporary bonds, with or without coupons, exchangeable for
25 definitive bonds when the definitive bonds have been executed and are available for
26 delivery.

27 (b) The Department may issue its bond anticipation notes, payable to the
28 bearer or registered holder of the notes out of the first proceeds of the next sale of
29 special transportation project revenue bonds.

30 (c) The resolution authorizing the issuance of bond anticipation notes may
31 provide for the issuance of these notes in series, as funds are required, and for the
32 renewal of these notes at maturity, with or without resale.

33 (d) The issuance of bond anticipation notes, the details of issuance, the rights
34 of their holders, and the rights, duties, and obligations of the Department with
35 respect to the bond anticipation notes are governed by the provisions of this subtitle
36 relating to the 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 be any trust
4 company or bank having trust powers within or without the State.

5 (2) The trust agreement may pledge or assign all or any part of the
6 existing and anticipated federal funds paid to or expected to be paid to the
7 Department for transportation purposes.

8 (b) Any trust agreement or bond authorizing resolution may:

9 (1) Contain provisions for the protection and enforcement of the rights
10 and remedies of bondholders as are considered reasonable and proper, including
11 covenants setting forth the duties of the Department as to the financing or
12 development of any transportation facility, the extension, enlargement, improvement,
13 maintenance, operation, repair, and insurance of the transportation facility, and the
14 custody, safeguarding, and application of money;

15 (2) Provide for the employment of consulting engineers in connection
16 with the construction or operation of any transportation facility;

17 (3) Set forth the rights and remedies of the bondholders and of the
18 trustee;

19 (4) Restrict the individual right of action by bondholders; and

20 (5) Contain any other provisions that the Department considers
21 reasonable and proper for the security of the bondholders.

22 (c) All expenses incurred in carrying out the trust agreement may be treated
23 as a part of the cost of the operation of the transportation facility in connection with
24 which the bonds have been issued.

25 (d) The proceeds of the sale of bonds shall be paid to the trustee under the
26 trust agreement securing the bonds and shall be disbursed in the manner and under
27 the restrictions, if any, provided in the trust agreement.

28 (e) Any bank or trust company incorporated under the laws of this State that
29 acts as depository of the proceeds of the bonds or of revenues may furnish any
30 indemnifying bonds or pledge any securities that the Department requires.]

31 [3-607.

32 (a) The bonds, notes, and other evidences of obligation issued under this
33 subtitle, their transfer, the interest payable on them, and any income derived from
34 them, including any profit realized in their sale or exchange, shall be exempt from
35 taxation by this State or by any of its political subdivisions, municipal corporations, or
36 public agencies.

1 (b) The bonds, notes, and other evidences of obligation issued under this
2 subtitle are not and may not be considered to constitute a debt or a pledge of the faith
3 and credit of the State of Maryland, but shall be payable, as to both principal and
4 interest, only from the proceeds of the revenues pledged or made available under this
5 subtitle for this purpose.

6 (c) The Department's pledge of revenues and funds to secure its bonds, notes,
7 and other evidences of obligation issued under this subtitle, shall be valid and binding
8 against any person having a claim against the Department, and shall have priority
9 over any such claim, regardless of whether the person has notice of the Department's
10 pledge.

11 (d) Notwithstanding any other provision of law, the Department is only
12 required to file or record in the records of the Department any resolution, trust
13 agreement, or other instrument that creates a lien on, a security interest in, or an
14 assignment of:

15 (1) Any revenues;

16 (2) Any rights to receive revenues; or

17 (3) Any moneys or securities in the funds and accounts pledged to the
18 bonds, notes, or other evidence of obligation of the Department.]

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
20 construed to apply only prospectively and may not be applied or interpreted to have
21 any effect on or application to any bonds issued or debts incurred under former Title
22 3, Subtitle 6 of the Transportation Article before the effective date of this Act or any
23 rights or duties relating to those bonds or debts.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2004.