
By: **Senators Jones, Britt, Currie, Gladden, Grosfeld, Lawlah, and
McFadden**

Introduced and read first time: February 6, 2004

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Debt - Enabling Acts - Minority Business Participation**

3 FOR the purpose of requiring that certain enabling acts authorizing the issuance of
4 State general obligation bonds by the Board of Public Works include certain
5 language requiring certain grantees to attempt to use certain minority business
6 enterprises for at least a certain percentage of the State's investment in the
7 project and to report on the percentage of the loan proceeds used to obtain goods
8 or services for the project from certified minority business enterprises; requiring
9 the Department of General Services to submit a certain report to the Governor
10 and General Assembly by certain dates; and generally relating to enabling acts
11 authorizing the issuance of State general obligation bonds and minority
12 business participation.

13 BY repealing and reenacting, with amendments,
14 Article - State Finance and Procurement
15 Section 8-117
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2003 Supplement)

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

20 **Article - State Finance and Procurement**

21 8-117.

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

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

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

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

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

2 "A BILL ENTITLED

3 AN ACT concerning

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

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

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That:

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

25 (2) The bonds to evidence this loan or installments of this loan may be sold as
26 a single issue or may be consolidated and sold as part of a single issue of bonds under
27 § 8-122 of the State Finance and Procurement Article.

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

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

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

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

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

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

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

36 (e) IF AN ENABLING ACT AUTHORIZES A GRANT OF OVER \$100,000, THE
37 ENABLING ACT SHALL INCLUDE THE FOLLOWING PARAGRAPH:

38 "THE GRANTEE SHALL ATTEMPT TO USE CERTIFIED MINORITY BUSINESS
39 ENTERPRISES, AS DEFINED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT
40 ARTICLE, TO PROVIDE SERVICES OR GOODS FOR THE PROJECT IN AN AMOUNT
41 EQUIVALENT TO AT LEAST 25% OF THE STATE'S INVESTMENT IN THE PROJECT. ON OR
42 BEFORE FEBRUARY 1 OF EACH YEAR UNTIL THE FULL AMOUNT OF THE LOAN
43 PROCEEDS HAS BEEN EXPENDED OR THE AUTHORIZATION FOR THE PROJECT

1 TERMINATES, THE GRANTEE SHALL PROVIDE TO THE DEPARTMENT OF GENERAL
2 SERVICES A REPORT ON THE PERCENTAGE OF THE LOAN PROCEEDS AND TOTAL
3 DOLLAR AMOUNT USED IN THE PRIOR YEAR TO OBTAIN GOODS OR SERVICES FOR
4 THE PROJECT FROM CERTIFIED MINORITY BUSINESS ENTERPRISES."

5 (F) An enabling act may also contain the following paragraph:

6 "The proceeds of the loan must be expended or encumbered by the Board of
7 Public Works for the purposes provided in this Act no later than June 1, (7 years
8 from the effective date of the Act). If any funds authorized by this Act remain
9 unexpended or unencumbered after June 1, (7 years from the effective date of the
10 Act), the amount of the unencumbered or unexpended authorization shall be canceled
11 and be of no further effect. If bonds have been issued for the loan, the amount of
12 unexpended or unencumbered bond proceeds shall be disposed of as provided in §
13 8-129 of the State Finance and Procurement Article."

14 [(f)] (G) An enabling act under this section may contain:

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
21 General Services shall report to the Governor and to the General Assembly on or
22 before March 1 of each year, in accordance with § 2-1246 of the State Government
23 Article, on the aggregate use of minority business enterprises by grantees of State
24 money from general obligation bonds in the prior year.

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