

**ENROLLED BILL**

-- Appropriations/Budget and Taxation --

Introduced by **Frederick County Delegation**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Frederick County - Public Facilities Bonds**

3 FOR the purpose of authorizing and empowering the County Commissioners of  
4 Frederick County, from time to time, to borrow not more than ~~\$60,000,000~~  
5 \$66,000,000 in order to finance the cost of certain public facilities in Frederick  
6 County, as herein defined, to finance the payment of any unfunded liability of the  
7 County to the State Retirement and Pension System of Maryland, and to effect  
8 such borrowing by the issuance and sale at public or private sale of its general  
9 obligation bonds; empowering the County to fix and determine, by resolution,  
10 the form, tenor, interest rate or rates or method of determining the same, terms,  
11 conditions, maturities, and all other details incident to the issuance and sale of  
12 the bonds; empowering the County to issue refunding bonds for the purchase or  
13 redemption of bonds in advance of maturity; empowering and directing the  
14 County to levy, impose, and collect, annually, ad valorem taxes in rate and  
15 amount sufficient to provide funds for the payment of the maturing principal of  
16 and interest on the bonds; exempting the bonds and refunding bonds and the  
17 interest thereon and any income derived therefrom from all State, county,

1 municipal, and other taxation in the State of Maryland; providing that nothing  
2 in this Act shall prevent the County from authorizing the issuance and sale of  
3 bonds the interest on which is not excludable from gross income for federal  
4 income tax purposes; providing that such borrowing may be undertaken by  
5 Frederick County in the form of installment purchase obligations executed and  
6 delivered by Frederick County for the purpose of acquiring agricultural land and  
7 woodland preservation easements; *providing that such borrowing may be*  
8 *undertaken by Frederick County to finance the payment of any unfunded liability*  
9 *of Frederick County to the State Retirement and Pension System of Maryland for*  
10 *certain public purposes;* and generally relating to the issuance and sale of the  
11 bonds by Frederick County.

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That, as used herein, the term "County" means the body politic and  
14 corporate of the State of Maryland known as the County Commissioners of Frederick  
15 County, and the term "public facilities" means the cost of construction and  
16 reconstruction of capital projects, including but not limited to landfill projects, public  
17 schools, roads, bridges, flood control projects, solid waste facilities, water and leachate  
18 treatment facilities, libraries, easements or similar or related rights in land that  
19 restrict the use of agricultural land or woodland to maintain the character of the land  
20 as agricultural land or woodland, and communication systems, including the  
21 development of property, the acquisition and installation of equipment and  
22 furnishings, together with any related architectural, financial, legal, planning, or  
23 engineering services.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby  
25 authorized to finance any part or all of the costs of the public facilities described in  
26 Section 1 of this Act, *to finance the payment of any unfunded liability of the County to*  
27 *the State Retirement and Pension System of Maryland,* and to borrow money and  
28 incur indebtedness for ~~that purpose~~ *those purposes,* at one time or from time to time,  
29 in an amount not exceeding, in the aggregate, ~~\$60,000,000~~ *\$66,000,000* and to  
30 evidence such borrowing by the issuance and sale upon its full faith and credit of  
31 general obligation bonds, which may be issued at one time or from time to time, in one  
32 or more groups or series, as the County may determine.

33 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued  
34 pursuant to a resolution of the County, which shall describe generally the public  
35 facilities, *and the unfunded liability of the County to the State Retirement and Pension*  
36 *System of Maryland,* for which the proceeds of the bond sale are intended and the  
37 amount needed for those purposes. The County shall have and is hereby granted full  
38 and complete authority and discretion in the resolution to fix and determine with  
39 respect to the bonds of any issue: the designation, date of issue, denomination or  
40 denominations, form or forms, and tenor of the bonds which, without limitation, may  
41 be issued in registered form within the meaning of Section 30 of Article 31 of the  
42 Annotated Code of Maryland, as amended; the rate or rates of interest payable  
43 thereon, or the method of determining the same, which may include a variable rate;  
44 the date or dates and amount or amounts of maturity, which need not be in equal par  
45 amounts or in consecutive annual installments, provided only that no bond of any  
46 issue shall mature later than 30 years from the date of its issue; the manner of selling

1 the bonds, which may be at either public or private sale, for such price or prices as  
2 may be determined to be for the best interests of Frederick County; the manner of  
3 executing and sealing the bonds, which may be by facsimile; the terms and conditions  
4 of a payment by the County of any unfunded liability of the County to the State  
5 Retirement and Pension System of Maryland; the terms or conditions, if any, under  
6 which bonds may or shall be redeemed prior to their stated maturity; the place or  
7 places of payment of the principal of and the interest on the bonds, which may be at  
8 any bank or trust company within or without the State of Maryland; covenants  
9 relating to compliance with applicable requirements of federal income tax law,  
10 including covenants regarding the payment of rebate or penalties in lieu of rebate;  
11 covenants relating to compliance with applicable requirements of federal or state  
12 securities laws; and generally all matters incident to the terms, conditions, issuance,  
13 sale, and delivery thereof.

14 The County may enter into agreements with agents, banks, fiduciaries,  
15 insurers, or others for the purpose of enhancing the marketability of any security for  
16 the bonds and for the purpose of securing any tender option that may be granted to  
17 holders of the bonds.

18 In case any officer whose signature appears on any bond ceases to be such  
19 officer before the delivery thereof, such signature shall nevertheless be valid and  
20 sufficient for all purposes as if he had remained in office until such delivery. The  
21 bonds and the issuance and sale thereof shall be exempt from the provisions of  
22 Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of Maryland.

23 If the County determines in the resolution to offer any of the bonds by  
24 solicitation of competitive bids at public sale, the resolution shall fix the terms and  
25 conditions of the public sale and shall adopt a form of notice of sale, which shall  
26 outline the terms and conditions, and a form of advertisement, which may be  
27 published in one or more daily or weekly newspapers having a general circulation in  
28 the County and which may also be published in one or more journals having a  
29 circulation primarily among banks and investment bankers. Upon delivery of any  
30 bonds to the purchaser or purchasers, payment therefor shall be made to the  
31 Treasurer of Frederick County or such other official of Frederick County as may be  
32 designated to receive such payment in a resolution passed by the County  
33 Commissioners of Frederick County before delivery. For purposes of issuance and  
34 sale, bonds authorized hereunder may be consolidated into a single issue with any  
35 other bonds authorized to be issued by the County.

36 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the  
37 sale of bonds shall be used and applied exclusively and solely for the public facilities  
38 or to finance the payment of any unfunded liability of the County to the State  
39 Retirement and Pension System of Maryland for which the bonds are sold. If the net  
40 proceeds of the sale of any issue of bonds exceeds the amount needed to finance the  
41 public facilities described in the resolution or to finance the payment of any unfunded  
42 liability of the County to the State Retirement and Pension System of Maryland, the  
43 excess funds so borrowed and not expended shall be applied to the payment of the  
44 next principal maturity of the bonds or to the redemption of any part of the bonds  
45 which have been made redeemable or to the purchase and cancellation of bonds,

1 unless the County shall adopt a resolution allocating the excess funds to the costs of  
2 other public facilities.

3 SECTION 5. AND BE IT FURTHER ENACTED, That the borrowing authorized  
4 by this Act to finance the payment of any unfunded liability of the County to the State  
5 Retirement and Pension System of Maryland may be issued for the public purposes of  
6 (i) realizing savings with respect to the aggregate cost of the County payment liability  
7 being funded, on either a direct comparison or present value basis; or (ii) structuring or  
8 restructuring payment liability costs in a manner that (a) in the aggregate effects a  
9 reduction in the total cost of the County payment liability as described, or (b) is  
10 determined by the County to be in the best interests of the County, to be consistent with  
11 the County's long-term financial plan, and to realize a financial objective of the  
12 County, including improving the relationship of liability payment costs to a source of  
13 payments such as taxes, assessments or other charges. Any findings made by the  
14 County in the resolution regarding the public purposes achieved by the issuance of  
15 bonds for such purposes shall be conclusive.

16 SECTION 12. AND BE IT FURTHER ENACTED, That the bonds hereby  
17 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full  
18 faith and credit and unlimited taxing power of the County to the payment of the  
19 maturing principal of and interest on the bonds as and when they become payable. In  
20 each and every fiscal year that any of the bonds are outstanding, the County shall  
21 levy or cause to be levied ad valorem taxes upon all the assessable property within the  
22 corporate limits of Frederick County in rate and amount sufficient to provide for or  
23 assure the payment, when due, of the principal of and interest on all the bonds  
24 maturing in each such fiscal year and, in the event the proceeds from the taxes so  
25 levied in any such fiscal year shall prove inadequate for such payment, additional  
26 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The  
27 County may apply to the payment of the principal of and interest on any bonds issued  
28 hereunder any funds received by it from the State of Maryland, the United States of  
29 America, any agency or instrumentality thereof, or from any other source. If such  
30 funds are granted for the purpose of assisting the County in financing the  
31 construction, improvement, development, or renovation of the public facilities defined  
32 in this Act and, to the extent of any such funds received or receivable in any fiscal  
33 year, the taxes that might otherwise be levied under this Act, may be reduced or need  
34 not be levied.

35 SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby  
36 further authorized and empowered, at any time and from time to time, to issue its  
37 bonds in the manner herein above described for the purpose of refunding, by payment  
38 at maturity or upon purchase or redemption, any bonds issued hereunder. The  
39 validity of any such refunding bonds shall in no way be dependent upon or related to  
40 the validity or invalidity of the obligations so refunded. The powers herein granted  
41 with respect to the issuance of bonds shall be applicable to the issuance of refunding  
42 bonds. Such refunding bonds may be issued by the County for the purpose of  
43 providing it with funds to pay any of its outstanding bonds issued hereunder at  
44 maturity, for the purpose of providing it with funds to purchase in the open market  
45 any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the  
46 purpose of providing it with funds for the redemption prior to maturity of any

1 outstanding bonds issued hereunder which are, by their terms, redeemable, for the  
2 purpose of providing it with funds to pay interest on any outstanding bonds issued  
3 hereunder prior to their payment at maturity of purchase or redemption in advance of  
4 maturity, or for the purpose of providing it with funds to pay any redemption or  
5 purchase premium in connection with the refunding of any of its outstanding bonds  
6 issued hereunder. The proceeds of the sale of any such refunding bonds shall be  
7 segregated and set apart by the County as a separate trust fund to be used solely for  
8 the purpose of paying the purchase or redemption prices of the bonds to be refunded.

9 SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to  
10 the preparation of definitive bonds, issue interim certificates or temporary bonds,  
11 with or without coupons, exchangeable for definitive bonds when such bonds have  
12 been executed and are available for such delivery, provided, however, that any such  
13 interim certificates or temporary bonds shall be issued in all respects subject to the  
14 restrictions and requirements set forth in this Act. The County may, by appropriate  
15 resolution, provide for the replacement of any bonds issued hereunder which shall  
16 have become mutilated or lost or destroyed upon such conditions and after receiving  
17 such indemnity as the County may require.

18 SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations  
19 issued pursuant to the authority of this Act, their transfer, the interest payable  
20 thereon, and any income derived therefrom in the hands of the holders thereof from  
21 time to time (including any profit made in the sale thereof) shall be and are hereby  
22 declared to be at all times exempt from State, county, municipal, or other taxation of  
23 every kind and nature whatsoever within the State of Maryland. Nothing in this Act  
24 shall prevent the County from authorizing the issuance and sale of bonds the interest  
25 on which is not excludable from gross income for federal income tax purposes.

26 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow  
27 money and issue bonds conferred on the County by this Act shall be deemed to provide  
28 additional, alternative, and supplemental authority for borrowing money and shall be  
29 regarded as supplemental and additional to powers conferred upon the County by  
30 other laws and shall not be regarded as in derogation of any power now existing; and  
31 all Acts of the General Assembly of Maryland heretofore passed authorizing the  
32 County to borrow money are hereby continued to the extent that the powers contained  
33 in such Acts have not been exercised, and nothing contained in this Act may be  
34 construed to impair, in any way, the validity of any bonds that may have been issued  
35 by the County under the authority of any said Acts, and the validity of the bonds is  
36 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of  
37 the inhabitants of Frederick County, shall be liberally construed to effect the purposes  
38 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are  
39 hereby repealed to the extent of such inconsistency.

40 SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing  
41 authorized by this Act may also be undertaken by the County in the form of  
42 installment purchase obligations executed and delivered by the County for the  
43 purpose of acquiring easements or similar or related rights in land that restrict the  
44 use of agricultural land or woodland to maintain the character of the land as  
45 agricultural land or woodland. The form of installment purchase obligations, the

1 manner of accomplishing the acquisition of easements, which may be by the direct  
2 exchange of installment purchase obligations for easement, and all matters incident  
3 to the execution and delivery of the installment purchase obligations and acquisition  
4 of the easements by the County shall be determined in the resolution. Except where  
5 the provisions of this Act would be inapplicable to installment purchase obligations,  
6 the term "bonds" used in this Act shall include installment purchase obligations and  
7 matters pertaining to the bonds under this Act, such as the security for the payment  
8 of the bonds, the exemption of the bonds from State, county, municipal, or other  
9 taxation, and authorization to issue refunding bonds and the limitation on the  
10 aggregate principal amount of bonds authorized for issuance, shall be applicable to  
11 installment purchase obligations.

12       SECTION 11. AND BE IT FURTHER ENACTED, *That the borrowing*  
13 *authorized by this Act to finance the payment of any unfunded liability of the County*  
14 *to the State Retirement and Pension System of Maryland may be issued for the public*  
15 *purposes of (i) realizing savings with respect to the aggregate cost of the County*  
16 *payment liability being funded, on either a direct comparison or present value basis; or*  
17 *(ii) structuring or restructuring payment liability costs in a manner that (a) in the*  
18 *aggregate effects a reduction in the total cost of the County payment liability as*  
19 *described, or (b) is determined by the County to be in the best interests of the County, to*  
20 *be consistent with the County's long-term financial plan, and to realize a financial*  
21 *objective of the County, including improving the relationship of liability payment costs*  
22 *to a source of payments such as taxes, assessments or other charges. Any findings*  
23 *made by the County in the resolution regarding the public purposes achieved by the*  
24 *issuance of bonds for such purposes shall be conclusive.*

25       SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 June 1, 2005.