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By: **Frederick County Delegation**

Introduced and read first time: January 26, 2005

Assigned to: Appropriations

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Committee Report: Favorable

House action: Adopted

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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 in  
5 order to finance the cost of certain public facilities in Frederick County, as  
6 herein defined, and to effect such borrowing by the issuance and sale at public or  
7 private sale of its general obligation bonds; empowering the County to fix and  
8 determine, by resolution, the form, tenor, interest rate or rates or method of  
9 determining the same, terms, conditions, maturities, and all other details  
10 incident to the issuance and sale of the bonds; empowering the County to issue  
11 refunding bonds for the purchase or redemption of bonds in advance of maturity;  
12 empowering and directing the County to levy, impose, and collect, annually, ad  
13 valorem taxes in rate and amount sufficient to provide funds for the payment of  
14 the maturing principal of and interest on the bonds; exempting the bonds and  
15 refunding bonds and the interest thereon and any income derived therefrom  
16 from all State, county, municipal, and other taxation in the State of Maryland;  
17 providing that nothing in this Act shall prevent the County from authorizing the  
18 issuance and sale of bonds the interest on which is not excludable from gross  
19 income for federal income tax purposes; providing that such borrowing may be  
20 undertaken by Frederick County in the form of installment purchase obligations  
21 executed and delivered by Frederick County for the purpose of acquiring  
22 agricultural land and woodland preservation easements; and generally relating  
23 to the issuance and sale of the bonds by Frederick County.

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That, as used herein, the term "County" means the body politic and  
26 corporate of the State of Maryland known as the County Commissioners of Frederick  
27 County, and the term "public facilities" means the cost of construction and

1 reconstruction of capital projects, including but not limited to landfill projects, public  
2 schools, roads, bridges, flood control projects, solid waste facilities, water and leachate  
3 treatment facilities, libraries, easements or similar or related rights in land that  
4 restrict the use of agricultural land or woodland to maintain the character of the land  
5 as agricultural land or woodland, and communication systems, including the  
6 development of property, the acquisition and installation of equipment and  
7 furnishings, together with any related architectural, financial, legal, planning, or  
8 engineering services.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby  
10 authorized to finance any part or all of the costs of the public facilities described in  
11 Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at  
12 one time or from time to time, in an amount not exceeding, in the aggregate,  
13 \$60,000,000 and to evidence such borrowing by the issuance and sale upon its full  
14 faith and credit of general obligation bonds, which may be issued at one time or from  
15 time to time, in one or more groups or series, as the County may determine.

16 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued  
17 pursuant to a resolution of the County, which shall describe generally the public  
18 facilities for which the proceeds of the bond sale are intended and the amount needed  
19 for those purposes. The County shall have and is hereby granted full and complete  
20 authority and discretion in the resolution to fix and determine with respect to the  
21 bonds of any issue: the designation, date of issue, denomination or denominations,  
22 form or forms, and tenor of the bonds which, without limitation, may be issued in  
23 registered form within the meaning of Section 30 of Article 31 of the Annotated Code  
24 of Maryland, as amended; the rate or rates of interest payable thereon, or the method  
25 of determining the same, which may include a variable rate; the date or dates and  
26 amount or amounts of maturity, which need not be in equal par amounts or in  
27 consecutive annual installments, provided only that no bond of any issue shall mature  
28 later than 30 years from the date of its issue; the manner of selling the bonds, which  
29 may be at either public or private sale, for such price or prices as may be determined  
30 to be for the best interests of Frederick County; the manner of executing and sealing  
31 the bonds, which may be by facsimile; the terms or conditions, if any, under which  
32 bonds may or shall be redeemed prior to their stated maturity; the place or places of  
33 payment of the principal of and the interest on the bonds, which may be at any bank  
34 or trust company within or without the State of Maryland; covenants relating to  
35 compliance with applicable requirements of federal income tax law, including  
36 covenants regarding the payment of rebate or penalties in lieu of rebate; covenants  
37 relating to compliance with applicable requirements of federal or state securities  
38 laws; and generally all matters incident to the terms, conditions, issuance, sale, and  
39 delivery thereof.

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

44 In case any officer whose signature appears on any bond ceases to be such  
45 officer before the delivery thereof, such signature shall nevertheless be valid and

1 sufficient for all purposes as if he had remained in office until such delivery. The  
2 bonds and the issuance and sale thereof shall be exempt from the provisions of  
3 Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of Maryland.

4 If the County determines in the resolution to offer any of the bonds by  
5 solicitation of competitive bids at public sale, the resolution shall fix the terms and  
6 conditions of the public sale and shall adopt a form of notice of sale, which shall  
7 outline the terms and conditions, and a form of advertisement, which may be  
8 published in one or more daily or weekly newspapers having a general circulation in  
9 the County and which may also be published in one or more journals having a  
10 circulation primarily among banks and investment bankers. Upon delivery of any  
11 bonds to the purchaser or purchasers, payment therefor shall be made to the  
12 Treasurer of Frederick County or such other official of Frederick County as may be  
13 designated to receive such payment in a resolution passed by the County  
14 Commissioners of Frederick County before delivery. For purposes of issuance and  
15 sale, bonds authorized hereunder may be consolidated into a single issue with any  
16 other bonds authorized to be issued by the County.

17 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the  
18 sale of bonds shall be used and applied exclusively and solely for the public facilities  
19 for which the bonds are sold. If the net proceeds of the sale of any issue of bonds  
20 exceeds the amount needed to finance the public facilities described in the resolution,  
21 the excess funds so borrowed and not expended shall be applied to the payment of the  
22 next principal maturity of the bonds or to the redemption of any part of the bonds  
23 which have been made redeemable or to the purchase and cancellation of bonds,  
24 unless the County shall adopt a resolution allocating the excess funds to the costs of  
25 other public facilities.

26 SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby  
27 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full  
28 faith and credit and unlimited taxing power of the County to the payment of the  
29 maturing principal of and interest on the bonds as and when they become payable. In  
30 each and every fiscal year that any of the bonds are outstanding, the County shall  
31 levy or cause to be levied ad valorem taxes upon all the assessable property within the  
32 corporate limits of Frederick County in rate and amount sufficient to provide for or  
33 assure the payment, when due, of the principal of and interest on all the bonds  
34 maturing in each such fiscal year and, in the event the proceeds from the taxes so  
35 levied in any such fiscal year shall prove inadequate for such payment, additional  
36 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The  
37 County may apply to the payment of the principal of and interest on any bonds issued  
38 hereunder any funds received by it from the State of Maryland, the United States of  
39 America, any agency or instrumentality thereof, or from any other source. If such  
40 funds are granted for the purpose of assisting the County in financing the  
41 construction, improvement, development, or renovation of the public facilities defined  
42 in this Act and, to the extent of any such funds received or receivable in any fiscal  
43 year, the taxes that might otherwise be levied under this Act, may be reduced or need  
44 not be levied.

1 SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby  
2 further authorized and empowered, at any time and from time to time, to issue its  
3 bonds in the manner herein above described for the purpose of refunding, by payment  
4 at maturity or upon purchase or redemption, any bonds issued hereunder. The  
5 validity of any such refunding bonds shall in no way be dependent upon or related to  
6 the validity or invalidity of the obligations so refunded. The powers herein granted  
7 with respect to the issuance of bonds shall be applicable to the issuance of refunding  
8 bonds. Such refunding bonds may be issued by the County for the purpose of  
9 providing it with funds to pay any of its outstanding bonds issued hereunder at  
10 maturity, for the purpose of providing it with funds to purchase in the open market  
11 any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the  
12 purpose of providing it with funds for the redemption prior to maturity of any  
13 outstanding bonds issued hereunder which are, by their terms, redeemable, for the  
14 purpose of providing it with funds to pay interest on any outstanding bonds issued  
15 hereunder prior to their payment at maturity of purchase or redemption in advance of  
16 maturity, or for the purpose of providing it with funds to pay any redemption or  
17 purchase premium in connection with the refunding of any of its outstanding bonds  
18 issued hereunder. The proceeds of the sale of any such refunding bonds shall be  
19 segregated and set apart by the County as a separate trust fund to be used solely for  
20 the purpose of paying the purchase or redemption prices of the bonds to be refunded.

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

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

38 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow  
39 money and issue bonds conferred on the County by this Act shall be deemed to provide  
40 additional, alternative, and supplemental authority for borrowing money and shall be  
41 regarded as supplemental and additional to powers conferred upon the County by  
42 other laws and shall not be regarded as in derogation of any power now existing; and  
43 all Acts of the General Assembly of Maryland heretofore passed authorizing the  
44 County to borrow money are hereby continued to the extent that the powers contained  
45 in such Acts have not been exercised, and nothing contained in this Act may be  
46 construed to impair, in any way, the validity of any bonds that may have been issued

1 by the County under the authority of any said Acts, and the validity of the bonds is  
2 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of  
3 the inhabitants of Frederick County, shall be liberally construed to effect the purposes  
4 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are  
5 hereby repealed to the extent of such inconsistency.

6 SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing  
7 authorized by this Act may also be undertaken by the County in the form of  
8 installment purchase obligations executed and delivered by the County for the  
9 purpose of acquiring easements or similar or related rights in land that restrict the  
10 use of agricultural land or woodland to maintain the character of the land as  
11 agricultural land or woodland. The form of installment purchase obligations, the  
12 manner of accomplishing the acquisition of easements, which may be by the direct  
13 exchange of installment purchase obligations for easement, and all matters incident  
14 to the execution and delivery of the installment purchase obligations and acquisition  
15 of the easements by the County shall be determined in the resolution. Except where  
16 the provisions of this Act would be inapplicable to installment purchase obligations,  
17 the term "bonds" used in this Act shall include installment purchase obligations and  
18 matters pertaining to the bonds under this Act, such as the security for the payment  
19 of the bonds, the exemption of the bonds from State, county, municipal, or other  
20 taxation, and authorization to issue refunding bonds and the limitation on the  
21 aggregate principal amount of bonds authorized for issuance, shall be applicable to  
22 installment purchase obligations.

23 SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 June 1, 2005.