
By: **Howard County Delegation**

Introduced and read first time: March 3, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County - Revenue Authority**
3 **Ho. Co. 8-05**

4 FOR the purpose of authorizing Howard County to establish a revenue authority as a
5 public corporation and body politic with certain powers, rights, and obligations,
6 subject to certain requirements; authorizing a certain revenue authority to issue
7 revenue bonds, notes, and other evidences of indebtedness; exempting the
8 bonds, notes, and other evidences of indebtedness from taxation; defining
9 certain terms; requiring any legislation enacted by the County to specify and
10 provide for certain matters; making the revenue authority subject to certain
11 State and local laws; providing that proceeds from the conveyance of any County
12 property to the revenue authority shall be applied by the County for certain
13 purposes; prohibiting the County from transferring to the revenue authority
14 certain money from the general funds of the County to pay for certain financing;
15 making the budget of the revenue authority subject to the approval of the
16 County Executive and the County Council; requiring the revenue authority to
17 send a certain annual report to certain persons, to keep certain books and
18 records and make them available for inspection, and to have a certain audit
19 done; establishing a board of directors of the revenue authority; specifying the
20 membership, qualifications, compensation, and other related matters
21 concerning the board of directors; authorizing the County Executive to nominate
22 an executive director of the revenue authority; authorizing the board of directors
23 to determine the duties, responsibilities, and compensation of the executive
24 director; requiring the revenue authority to submit a certain annual plan to the
25 County Executive and the County Council; making this Act severable; and
26 generally relating to the establishment of a revenue authority in Howard
27 County as a public corporation.

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That:

30 1. (a) In this Act the following words have the meanings indicated.

31 (b) "Board" means the board of directors of the Howard County Revenue
32 Authority.

1 (c) "County" means Howard County.

2 (d) "Plan" means the document that:

3 (1) is prepared by the revenue authority and approved by the
4 County Executive and the County Council; and

5 (2) outlines or presents a strategy for the activities of the revenue
6 authority.

7 (e) "Revenue authority" means the Howard County Revenue Authority.

8 2. (a) (1) Howard County, Maryland, may establish by local legislation a
9 revenue authority in the County. The revenue authority shall be known as the
10 Howard County Revenue Authority, shall have perpetual existence as a corporation,
11 shall be deemed to be performing an essential public function, and shall also be
12 considered to be a public body and an instrumentality of the County.

13 (2) The purpose of the revenue authority is to finance or operate
14 cultural, recreational (excluding golf courses), and parking facilities.

15 (b) (1) The County may enact, by local legislation, the provisions of
16 each section required by this Act and provisions to supplement the provisions of the
17 required sections, if not in conflict with the required sections.

18 (2) The local legislation, if enacted, shall:

19 (i) except as provided in §§ 3 and 4 of this Act, specify the
20 organization and membership of the revenue authority;

21 (ii) specify the purposes, as set forth in § 2(a)(2) of this Act, of
22 the revenue authority;

23 (iii) specify the powers to be exercised by the revenue
24 authority;

25 (iv) provide for the exercise of all powers, authority, rights,
26 and obligations required by this Act; and

27 (v) specify any other matters relating to the revenue
28 authority as the County may determine.

29 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection
30 and § 3(e)(2) of this Act, the provisions of the County Charter or other County law
31 regarding the duties, powers, or organization of the revenue authority do not apply to
32 the revenue authority, unless the County expressly provides by law that the Charter
33 provision or law applies to the revenue authority.

34 (2) The revenue authority shall be subject to § 2.125 et seq. of the
35 Howard County Code or any successor provisions of law and to § 10-611 et seq. of the
36 State Government Article of the Annotated Code of Maryland.

1 (3) The board, officers, executive director, and employees of the
2 revenue authority shall be subject to the Howard County Public Ethics Law, § 22.200
3 et seq. of the Howard County Code, or any successor provision of law.

4 (d) (1) The County Executive, with the approval of the County Council,
5 may convey to the revenue authority the County's title to any lands, streets, alleys,
6 buildings, facilities, or other public places, on payment to the County of the
7 reasonable value of such properties.

8 (2) The revenue authority and the County Executive shall
9 determine the value of a property with the approval of the County Council.

10 (3) Payment shall be made in cash or in bonds of the revenue
11 authority at par value.

12 (4) Proceeds from the conveyance of any County property to the
13 revenue authority under this subsection shall be applied by the County to:

14 (i) the repayment of County general obligation debt or
15 revenue obligations issued to finance or refinance the acquisition or development of
16 the property conveyed; or

17 (ii) the acquisition or development of capital projects of the
18 County.

19 (e) (1) Subject to paragraph (2) of this subsection, the County
20 Executive, with the approval of the County Council, may assign to the revenue
21 authority any rates, rentals, fees, or charges now being or hereafter received by the
22 County, such assignment to be made for the purpose of providing additional security
23 for any bonds to be issued under this Act or for such other purposes as may be agreed
24 to between the revenue authority and the County.

25 (2) The County may not pay or otherwise transfer to the revenue
26 authority as rates, rentals, fees, or charges, money from the general funds of the
27 County to pay for financing public property to be occupied or used by the County for
28 governmental purposes.

29 (f) (1) The County Council may advance to the revenue authority from
30 the general funds of the County, sums to be used by the revenue authority to defray
31 expenses for investigation, engineering and architectural studies, opinions, and
32 compensation of employees and counsel, that may be incurred prior to the sale of its
33 revenue bonds.

34 (2) Advances shall be repaid out of the first proceeds of the sale of
35 revenue bonds by the revenue authority following any such advance.

36 (3) The advances may be made in accordance with subsection (h) of
37 this section.

1 (g) The budget for the revenue authority and any proposal by the
2 revenue authority to sell bonds is subject to the approval of the County Executive and
3 the County Council.

4 (h) (1) The revenue bonds, certificates, or other evidences of
5 indebtedness issued under the provisions of this Act may not be deemed to constitute
6 a debt of the County or a pledge of the faith and credit of the County or of the State of
7 Maryland or any political subdivision of the State of Maryland.

8 (2) The revenue bonds, certificates, or other evidences of
9 indebtedness shall be payable from the funds of the revenue authority provided from
10 revenues of the project or projects of the revenue authority.

11 (3) All revenue bonds shall contain a statement on their face to the
12 effect that the full faith and credit of the County, State, or political subdivision of the
13 State of Maryland is not pledged to pay such bonds or the interest thereon.

14 (4) Except as otherwise provided in paragraph (5) of this
15 subsection, the issuance of the revenue bonds, certificates, or other evidences of
16 indebtedness under the provisions of this Act may not directly, indirectly, or
17 contingently obligate Howard County to levy or pledge any form of taxation or any
18 appropriation for their payment.

19 (5) The County Executive may, with the approval of the Council,
20 collaterally agree to provide sufficient moneys from the general fund of the County to
21 pay any deficiency in the debt service requirements of such bonds for any year in
22 which there is a deficit.

23 (6) An advance of moneys from the general fund of the County shall
24 be repaid from the receipts, rentals, or revenues of the authority in the next
25 succeeding year in which such receipts, rentals, or revenues exceed debt service
26 requirements and operating expenses.

27 (7) An advance of moneys from the general fund of the County
28 under any agreement or agreements shall not exceed, but shall be limited and
29 restricted to, a maximum amount established by local legislation or, in the absence of
30 local legislation, a maximum payment by the County of twenty-five thousand dollars
31 (\$25,000.00) for any one (1) year.

32 (i) (1) Revenue bonds issued by the revenue authority authorized by
33 this Act are hereby made securities in which all public officers and public agencies of
34 the State and its political subdivisions, and all banks, trust companies, savings and
35 loan associations, investment companies, and others carrying on a banking business,
36 all insurance companies and insurance associations and others carrying on an
37 insurance business, all administrators, executors, guardians, trustees, and other
38 fiduciaries, and all other persons may legally and properly invest funds, including
39 capital, in their control or belonging to them.

40 (2) Revenue bonds issued by the revenue authority are hereby
41 made securities that may properly and legally be deposited with and received by any

1 State or municipal officer or any agency or political subdivision of the State for any
2 purpose for which the deposit of bonds or other obligations of the State is now or may
3 hereafter be authorized by law.

4 (j) The revenue authority established by the County may issue revenue
5 bonds, notes, or other evidences of indebtedness.

6 (k) The bonds, notes, and other evidences of indebtedness issued by the
7 revenue authority established by the County, their transfer, the interest payable on
8 them, and any income derived from them, including any profit realized in their sale or
9 exchange, shall be exempt at all times from taxation by the State, or by any of its
10 counties, municipal corporations, or public agencies of any kind.

11 (l) The bonds, notes, and other evidences of indebtedness issued by the
12 revenue authority established by the County shall be exempt from the provisions of
13 Article 31, §§ 9, 10, and 11 of the Annotated Code of Maryland, or any successor
14 provision.

15 (m) The revenue authority established by the County may acquire real
16 and personal property and interests in real and personal property and may pledge,
17 mortgage, encumber, sell, lease, transfer, or convey any interest in its real and
18 personal property to the County or any person.

19 (n) Earnings of the revenue authority established by the County may not
20 enure to the benefit of private persons.

21 (o) Within 90 days after the end of the County's fiscal year, the revenue
22 authority shall send the County Executive, the County Council, and the County
23 delegation to the General Assembly an annual financial report:

24 (1) concerning:

25 (i) the activities of the revenue authority during the fiscal
26 year; and

27 (ii) the revenue authority's financial standing at the end of
28 the fiscal year; and

29 (2) containing the audit report required under subsection (p)(2) of
30 this section.

31 (p) (1) The revenue authority shall keep records consistent with sound
32 business practices and accounting records using generally accepted accounting
33 principles.

34 (2) The revenue authority shall have its books and records audited
35 at the conclusion of each fiscal year.

1 (3) The books and records of the revenue authority shall be subject
2 to audit, examination, and inspection at any reasonable time by the County Executive
3 and the County Council or their designees.

4 (4) In addition to any financial audit required by this subsection,
5 the County may conduct financial or management audits.

6 (q) In the event of dissolution of the revenue authority established by the
7 County, the title to all property financed by the proceeds of bonds, notes, or other
8 evidences of indebtedness issued by the revenue authority shall revert to the County.

9 (r) (1) It is the intent of this Act that the revenue authority established
10 by the County be a "constituted authority" within the meaning of the Internal
11 Revenue Code of 1986, as amended, and the relevant regulations, rulings, and
12 procedures.

13 (2) The powers of the revenue authority shall be construed to give
14 effect to this intent.

15 3. (a) On enactment of local legislation by the County establishing a
16 revenue authority, there is a board of directors of the revenue authority, which shall
17 manage the affairs of the authority and exercise all its corporate powers.

18 (b) The board shall have no more than seven voting members appointed
19 by the County Executive with the approval of the County Council.

20 (c) (1) Board members shall either be residents of Howard County or
21 persons with business interests in the County.

22 (2) Board members shall be selected for known leadership,
23 experience, and interest in the well-being of the County and shall represent a cross
24 section of the County.

25 (3) Employees of the County, employees of the revenue authority, or
26 elected officials of the County are not eligible to serve as board members.

27 (d) (1) (i) Board members shall serve staggered terms of 4 years, as
28 required in legislation enacted by the County.

29 (ii) At the end of a term, a board member continues to serve
30 until a successor is appointed and qualifies.

31 (2) A board member who is appointed to complete an unexpired
32 term serves for the rest of that term or until a successor is appointed and qualifies.

33 (3) A member may not be reappointed after having served 8 or
34 more consecutive years immediately before appointment.

35 (e) (1) A member may be removed for incompetence, misconduct, or
36 failure to perform the duties of the position.

1 (2) Removal shall be pursuant to the provisions of § 903 of the
2 Howard County charter.

3 (f) (1) The board shall elect one of its members as chair, one as
4 vice-chair, and one as secretary-treasurer, to serve 2-year terms.

5 (2) An officer may serve an unlimited number of terms during the
6 officer's membership on the board.

7 (g) (1) A majority of the members of the board constitute a quorum for
8 the purpose of conducting business.

9 (2) The affirmative vote of a majority of the members is required
10 before the board may take action.

11 (3) The board shall meet at least once each month at the times and
12 places that it determines and more often at the call of the chair.

13 (h) The board members shall receive no compensation for their services
14 except reasonable and necessary expenses (including travel expenses) incurred in the
15 discharge of their duties as provided in the revenue authority's budget.

16 4. (a) (1) Subject to the approval of the board, the County Executive shall
17 nominate one or more candidates for executive director, who shall be the chief
18 administrative officer of the revenue authority.

19 (2) The executive director:

20 (i) shall serve at the pleasure of the board and the County
21 Executive; and

22 (ii) may be removed from office either by the County
23 Executive with the concurrence of the board or by a two-thirds vote of the board.

24 (3) The duties, responsibilities, and compensation of the executive
25 director shall be determined by the board.

26 (4) The executive director shall appoint or employ any additional
27 professional, technical, or clerical staff necessary to carry out the revenue authority's
28 duties, and shall determine their qualifications, duties, and compensation.

29 (b) The board may engage any necessary accountants, engineers,
30 financial advisors, or other consultants.

31 5. (a) The powers granted to the revenue authority may not be construed to
32 authorize the revenue authority to:

33 (1) preempt or supersede the regulatory authority of any State or
34 county department or agency; or

1 (2) engage in any activity which is beyond its stated purpose or
2 powers.

3 (b) In addition to other powers granted to it under this Act or by local
4 legislation enacted by the County, the revenue authority has the following powers:

5 (1) to develop and annually update the plan for the County;

6 (2) to implement the plan for the County;

7 (3) to make, amend, and repeal bylaws, rules, and regulations in a
8 manner consistent with this Act and in compliance with the provisions of the Howard
9 County Administrative Procedure Act;

10 (4) to have a seal and alter the seal at its pleasure;

11 (5) to purchase, lease, use, hold, or obtain options on real or
12 personal property or interest in real or personal property as these are necessary for
13 the efficient regular operation of the revenue authority;

14 (6) to acquire real or personal property or interest in real or
15 personal property by gift, grant, bequest, devise, or other means;

16 (7) to sell, lease, transfer, exchange, assign, pledge, or dispose of
17 any real or personal property or any interest in real or personal property as these are
18 necessary for the efficient regular operation of the revenue authority;

19 (8) to receive and accept any contribution, gift, or grant from any
20 public or private source;

21 (9) to establish and appoint advisory groups and committees to
22 assist in carrying out the duties of the revenue authority;

23 (10) to exercise any power possessed by private corporations in
24 performing similar functions, which is not in conflict with federal, State, or County
25 law; and

26 (11) to do all things necessary and convenient to carry out the
27 powers and duties set forth in this Act.

28 6. (a) On or before October 30 of each year, the revenue authority shall
29 submit a plan for an update to the existing plan to the County Executive for the
30 County Executive's approval.

31 (b) The plan:

32 (1) shall include an annual work program for the next fiscal year
33 with a proposed level of funding;

1 (2) shall be consistent with the general plan, the prevalent zoning
2 map and regulations, and the subdivision and land development regulations for the
3 County; and

4 (3) shall promote the quality of life of the County residents.

5 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
6 Act or the application thereof to any person or circumstance is held invalid for any
7 reason in a court of competent jurisdiction, the invalidity does not affect other
8 provisions or any other application of this Act which can be given effect without the
9 invalid provision or application, and for this purpose the provisions of this Act are
10 declared severable.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2005.