
By: **Senators Brinkley and Mooney**

Introduced and read first time: February 2, 2005

Assigned to: Budget and Taxation

A BILL ENTITLED

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
28 reconstruction of capital projects, including but not limited to landfill projects, public
29 schools, roads, bridges, flood control projects, solid waste facilities, water and leachate
30 treatment facilities, libraries, easements or similar or related rights in land that
31 restrict the use of agricultural land or woodland to maintain the character of the land
32 as agricultural land or woodland, and communication systems, including the
33 development of property, the acquisition and installation of equipment and
34 furnishings, together with any related architectural, financial, legal, planning, or
35 engineering services.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby
2 authorized to finance any part or all of the costs of the public facilities described in
3 Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at
4 one time or from time to time, in an amount not exceeding, in the aggregate,
5 \$60,000,000 and to evidence such borrowing by the issuance and sale upon its full
6 faith and credit of general obligation bonds, which may be issued at one time or from
7 time to time, in one or more groups or series, as the County may determine.

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

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

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

41 If the County determines in the resolution to offer any of the bonds by
42 solicitation of competitive bids at public sale, the resolution shall fix the terms and
43 conditions of the public sale and shall adopt a form of notice of sale, which shall
44 outline the terms and conditions, and a form of advertisement, which may be
45 published in one or more daily or weekly newspapers having a general circulation in

1 the County and which may also be published in one or more journals having a
2 circulation primarily among banks and investment bankers. Upon delivery of any
3 bonds to the purchaser or purchasers, payment therefor shall be made to the
4 Treasurer of Frederick County or such other official of Frederick County as may be
5 designated to receive such payment in a resolution passed by the County
6 Commissioners of Frederick County before delivery. For purposes of issuance and
7 sale, bonds authorized hereunder may be consolidated into a single issue with any
8 other bonds authorized to be issued by the County.

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

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

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

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

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

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

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

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

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

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