
By: **Senators Brinkley and Mooney**

Introduced and read first time: February 2, 2005

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 2005

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

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

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

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

1 securities laws; and generally all matters incident to the terms, conditions, issuance,
2 sale, and delivery thereof.

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

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

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

25 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the
26 sale of bonds shall be used and applied exclusively and solely for the public facilities
27 or to finance the payment of any unfunded liability of the County to the State
28 Retirement and Pension System of Maryland for which the bonds are sold. If the net
29 proceeds of the sale of any issue of bonds exceeds the amount needed to finance the
30 public facilities described in the resolution or to finance the payment of any unfunded
31 liability of the County to the State Retirement and Pension System of Maryland, the
32 excess funds so borrowed and not expended shall be applied to the payment of the
33 next principal maturity of the bonds or to the redemption of any part of the bonds
34 which have been made redeemable or to the purchase and cancellation of bonds,
35 unless the County shall adopt a resolution allocating the excess funds to the costs of
36 other public facilities.

37 SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby
38 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full
39 faith and credit and unlimited taxing power of the County to the payment of the
40 maturing principal of and interest on the bonds as and when they become payable. In
41 each and every fiscal year that any of the bonds are outstanding, the County shall
42 levy or cause to be levied ad valorem taxes upon all the assessable property within the
43 corporate limits of Frederick County in rate and amount sufficient to provide for or
44 assure the payment, when due, of the principal of and interest on all the bonds

1 maturing in each such fiscal year and, in the event the proceeds from the taxes so
2 levied in any such fiscal year shall prove inadequate for such payment, additional
3 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The
4 County may apply to the payment of the principal of and interest on any bonds issued
5 hereunder any funds received by it from the State of Maryland, the United States of
6 America, any agency or instrumentality thereof, or from any other source. If such
7 funds are granted for the purpose of assisting the County in financing the
8 construction, improvement, development, or renovation of the public facilities defined
9 in this Act and, to the extent of any such funds received or receivable in any fiscal
10 year, the taxes that might otherwise be levied under this Act, may be reduced or need
11 not be levied.

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

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

41 SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations
42 issued pursuant to the authority of this Act, their transfer, the interest payable
43 thereon, and any income derived therefrom in the hands of the holders thereof from
44 time to time (including any profit made in the sale thereof) shall be and are hereby
45 declared to be at all times exempt from State, county, municipal, or other taxation of
46 every kind and nature whatsoever within the State of Maryland. Nothing in this Act

1 shall prevent the County from authorizing the issuance and sale of bonds the interest
2 on which is not excludable from gross income for federal income tax purposes.

3 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow
4 money and issue bonds conferred on the County by this Act shall be deemed to provide
5 additional, alternative, and supplemental authority for borrowing money and shall be
6 regarded as supplemental and additional to powers conferred upon the County by
7 other laws and shall not be regarded as in derogation of any power now existing; and
8 all Acts of the General Assembly of Maryland heretofore passed authorizing the
9 County to borrow money are hereby continued to the extent that the powers contained
10 in such Acts have not been exercised, and nothing contained in this Act may be
11 construed to impair, in any way, the validity of any bonds that may have been issued
12 by the County under the authority of any said Acts, and the validity of the bonds is
13 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of
14 the inhabitants of Frederick County, shall be liberally construed to effect the purposes
15 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are
16 hereby repealed to the extent of such inconsistency.

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

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

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