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By: **Senator Middleton**

Introduced and read first time: January 27, 2006

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Food Center Authority - Technical Changes**

3 FOR the purpose of clarifying the membership of the Maryland Food Center  
4 Authority; clarifying that the ex officio members of the Authority are voting  
5 members; authorizing ex officio Authority members to name designees to vote in  
6 their absence; providing that at the end of a term an Authority member serves  
7 until a successor is appointed and qualifies; repealing certain provisions of law  
8 establishing an advisory council to the Authority; providing for the issuance of  
9 federally taxable or tax-exempt bonds; repealing certain provisions of law  
10 limiting the value of certain revenue bonds that the Authority may issue;  
11 clarifying that the sale of bonds may be competitive or negotiated; authorizing  
12 the deposit of certain revenues into certain funds or reserves; authorizing the  
13 use of ~~moneys received from certain revenue bonds~~ revenues for the operation,  
14 improvement, maintenance, and protection of developments or projects from  
15 which certain revenue bond payments are derived; repealing certain provisions  
16 of law authorizing the Authority to ensure that a development or project be  
17 constructed and paid for under certain supervision and with certain approval;  
18 repealing certain provisions of law authorizing that security given by a  
19 contractor or a depository of certain proceeds, revenues, or other money be  
20 satisfactory to certain persons; repealing certain other obsolete provisions  
21 concerning bonds of the Authority; making stylistic changes; and generally  
22 relating to the Maryland Food Center Authority.

23 BY repealing

24 Article 41 - Governor - Executive and Administrative Departments

25 Section 13-103(b) and 13-107

26 Annotated Code of Maryland

1 (2003 Replacement Volume and 2005 Supplement)

2 BY adding to

3 Article 41 - Governor - Executive and Administrative Departments

4 Section 13-103(b)

5 Annotated Code of Maryland

6 (2003 Replacement Volume and 2005 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article 41 - Governor - Executive and Administrative Departments

9 Section 13-111

10 Annotated Code of Maryland

11 (2003 Replacement Volume and 2005 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article 41 - Governor - Executive and Administrative Departments**

15 13-103.

16 [(b) The Authority consists of 12 members, all of whom shall be citizens of the  
17 State, one of whom shall be a resident of Howard County. The Director of Agricultural  
18 Extension, State of Maryland, the Comptroller of the State, the Secretary of  
19 Agriculture, and the Secretary of General Services shall be ex officio members, and  
20 the tenure of their office shall coincide with the terms for which they hold the  
21 designated offices. In the event of a vacancy in any of the ex officio offices, the seat on  
22 the Authority is to be taken by the interim or permanent successor.

23 The Governor of the State of Maryland, with the advice and consent of the  
24 Senate, shall appoint 5 members who shall be outstanding citizens of the State. Each  
25 member, excluding the ex officio members, shall be appointed for a term of five years  
26 from the dates of expiration of the member's respective term of office, except that any  
27 person appointed to fill a vacancy shall serve only for the unexpired term. Any  
28 member of the Authority is eligible for reappointment. The Governor, after notice in  
29 writing to a member 30 days in advance of the action, may remove any member other  
30 than the ex officio members for inefficiency, neglect, or misconduct. Any member so  
31 notified shall be entitled to a hearing before the Governor, provided that request for a  
32 hearing be made in writing to the Governor not later than ten days after receipt of the  
33 notice. In the event of removal the Governor shall promptly appoint a successor.]

34 (B) (1) (I) THE AUTHORITY CONSISTS OF 12 MEMBERS.

35 (II) 1. EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

36 2. ONE MEMBER SHALL RESIDE IN HOWARD COUNTY.

37 (III) OF THE 12 MEMBERS:

- 1                   1.       FOUR SHALL BE EX OFFICIO VOTING MEMBERS:
- 2                   A.       THE DIRECTOR OF AGRICULTURAL EXTENSION;
- 3                   B.       THE COMPTROLLER OF THE STATE;
- 4                   C.       THE SECRETARY OF AGRICULTURE;
- 5                   D.       THE SECRETARY OF GENERAL SERVICES; AND

6                   2.       EIGHT SHALL BE OUTSTANDING RESIDENTS APPOINTED  
7 BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

8                   (2)       (I)       THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

9                   (II)       AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES  
10 TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

11                   (III)       A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
12 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED  
13 AND QUALIFIES.

14                   (3)       (I)       THIRTY DAYS AFTER GIVING WRITTEN NOTICE TO THE  
15 MEMBER, THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR  
16 INEFFICIENCY, NEGLIGENCE, OR MISCONDUCT.

17                   (II)       THE MEMBER IS ENTITLED TO A HEARING BEFORE THE  
18 GOVERNOR, IF A WRITTEN REQUEST FOR A HEARING IS MADE TO THE GOVERNOR NO  
19 LATER THAN 10 DAYS AFTER RECEIVING THE NOTICE.

20                   (III)       IF A MEMBER IS REMOVED, THE GOVERNOR SHALL PROMPTLY  
21 APPOINT A SUCCESSOR.

22                   (4)       AN EX OFFICIO VOTING MEMBER MAY DESIGNATE ANOTHER  
23 INDIVIDUAL TO VOTE IN THAT MEMBER'S ABSENCE.

24 [13-107.

25       (a)       An advisory council is created with the function to consult with the  
26 members of the Authority from time to time. The council has no vote upon the  
27 Authority but may be consulted regularly or from time to time by the Authority, and,  
28 upon the invitation of the Authority, shall attend meetings of the Authority, either as  
29 a group or individually. The Authority shall submit to the council all proposals on  
30 matters which directly relate to the operating procedures of the produce market  
31 facility in the market, and shall give sufficient notice to the council of these proposals  
32 to allow the council to submit to the Authority comments and recommendations  
33 concerning such proposals. These comments and recommendations must be  
34 considered by the Authority before action on the proposals, but they shall not be in  
35 any way binding upon the Authority. The council must submit its comments and  
36 recommendations to the Authority within 30 days after receipt by it of these proposals

1 from the Authority, unless the Authority deems the matter involved to be of such  
2 urgency as to require prompt action, in which case the council shall submit its  
3 comments and recommendations within 5 days.

4 (b) The advisory council is composed of 11 members. If an executive director of  
5 the Authority has been appointed by the Authority, the executive director shall be an  
6 ex officio member of the council, and his tenure of office shall coincide with the term  
7 for which he shall hold the position of executive director of the Authority. The ex  
8 officio member of the council has all rights incidental to membership on the council,  
9 except that he does not have the right to vote on matters coming before the council.  
10 However, the ex officio member may participate in all discussions on those matters  
11 and be present at the time of the vote. In the event of a vacancy in the position of  
12 executive director, the ex officio seat on the council shall be taken by the interim or  
13 permanent successor to that position. In the event that the position of executive  
14 director of the Authority does not exist, the ex officio seat on the council shall be taken  
15 by a person designated by the Authority. The executive director or the person  
16 appointed by the Authority to take the ex officio seat of the executive director on the  
17 council shall act as chairman of the council. The Maryland Agricultural Commission  
18 shall appoint 5 members of the council. Those produce merchants who are tenants in  
19 the produce market facility in the market shall appoint from among their number 5  
20 members of the council. The Maryland Agricultural Commission and the produce  
21 merchants shall determine their respective methods of appointment of members of  
22 the council. Their successors shall be appointed for terms of 1 year from the date of  
23 expiration of their terms of office, except that any person appointed to fill a vacancy  
24 shall serve only for the unexpired term. Any member of the council is eligible for  
25 reappointment. Compensation may not be paid to members of the council for  
26 performance of their duties, but the Authority may reimburse them for actual  
27 expenses necessarily incurred in the performance of their duties.

28 (c) The advisory council shall meet at least annually. All meetings of the  
29 council shall be called by the chairman of the council by written notice to each  
30 member at least 10 days in advance of the meeting. Five members of the council  
31 constitute a quorum. The ex officio member of the council may not be counted for  
32 purposes of determining the existence of a quorum. Action by the council shall be by  
33 majority vote, each member, excluding the ex officio member, being entitled to 1 vote.  
34 A vacancy in the council does not impair the right of a quorum to exercise all of the  
35 rights and perform all of the duties of the council. The council may establish whatever  
36 other rules and regulations as may be necessary for its own government.]

37 13-111.

38 (a) The Authority may provide by resolution for the issuance at one time, or in  
39 series from time to time, of ~~negotiable~~ **FEDERALLY TAX-EXEMPT OR FEDERALLY**  
40 **TAXABLE** revenue bonds of the Authority [in an amount not to exceed \$25,000,000 in  
41 the aggregate,] for the purpose of paying all or a part of the cost of developments or  
42 projects, and for all other purposes set out in this subtitle. Such bonds shall be  
43 executed in such manner as determined by the Authority.

1 (b) The bonds shall be dated, shall bear interest at such rate or rates, payable  
2 semiannually, and shall mature at such time or times not exceeding 40 years from the  
3 date or dates of their respective issues as may be determined by the Authority, and  
4 may be made redeemable before maturity, at the option of the Authority, at such price  
5 or prices and under such terms and conditions as may be fixed by the Authority prior  
6 to the issuance of the bonds. The principal of and the interest on such bonds may be  
7 made payable in any lawful medium.

8 (c) Revenue bonds issued under the provisions of this section shall not be  
9 deemed to constitute a debt of the State or of any political subdivision thereof or a  
10 pledge of the faith and credit of the State or of any such political subdivision, but the  
11 bonds shall be payable solely from the funds herein provided therefor from  
12 development or project revenues. All revenue bonds shall contain on the face thereof  
13 a statement to the effect that neither the Authority nor the State nor any political  
14 subdivision thereof is obligated to pay the principal or the interest thereon except  
15 from development or project revenues pledged to the payment of the bonds.

16 (d) The Authority shall determine the form of the revenue bonds, the manner  
17 of executing the bonds, the denomination or denominations of the bonds, and the  
18 place or places of payment of principal and interest thereof, which may be a bank or  
19 trust company within or without the State.

20 (e) The revenue bonds shall be executed in such manner as may be  
21 determined by the Authority. If any officer whose signature or facsimile thereof  
22 appears on any bond ceases to be such officer before the delivery of bonds, the  
23 signature or facsimile thereof shall nevertheless be valid and sufficient for all  
24 purposes the same as if he had remained in office until the delivery.

25 ~~(f) All revenue bonds issued under the provisions of this section have and are~~  
26 ~~hereby declared to have, as between successive holders, all the qualities and incidents~~  
27 ~~of negotiable instruments under the negotiable instruments law section of the~~  
28 ~~Uniform Commercial Code of this State.~~

29 ~~(g)~~ (F) The revenue bonds shall be sold by the Authority, ~~at public or private~~  
30 EITHER BY COMPETITIVE OR NEGOTIATED sale, in such manner and for such price as  
31 it may determine to be for its best interests. None of the provisions of §§ 8-206 and  
32 8-208 of the State Finance and Procurement Article have any application to the bonds  
33 hereby authorized and such bonds are explicitly exempted therefrom.

34 ~~(h)~~ (G) If the proceeds of the revenue bonds, by error of calculation or  
35 otherwise, are less than the amount required for the purpose for which bonds are  
36 authorized, additional bonds may be issued to provide the amount of the deficit, and  
37 unless otherwise provided by the authorizing resolution or in the trust indenture  
38 hereinafter mentioned, the additional bonds shall be deemed to be of the same issue  
39 and may be entitled to payment from the same funds without preference or priority of  
40 the bonds first issued for such purposes.

41 ~~(i)~~ (H) Prior to the preparation of definitive revenue bonds, the Authority,  
42 under the restrictions, may issue temporary revenue bonds, exchangeable for

1 definitive bonds upon the issuance of the latter. The Authority also may provide for  
 2 the replacement of any bonds which become mutilated or are destroyed or lost. The  
 3 bonds may be issued without an election or any other proceedings or the happening of  
 4 any conditions or things other than those proceedings, conditions, and things  
 5 specified and required by this subtitle.

6 ~~(H)~~ (I) A resolution providing for the issuance of revenue bonds also may  
 7 provide for the issuance of additional bonds and may limit the amount by the  
 8 resolution or trust indenture, for the purpose of paying the cost of any extensions,  
 9 additions, and improvements which thereafter become necessary; the additional  
 10 bonds may be sold from time to time in the manner hereinabove provided and shall be  
 11 deemed a part of the original issue authorized by the resolution, and shall be issued  
 12 under such restrictions and limitations as prescribed by the resolution or trust  
 13 indenture.

14 ~~(K)~~ (J) The Authority may provide by resolution for the issuance of its  
 15 revenue refunding bonds for the purpose of refunding any bonds then outstanding  
 16 and issued under the provisions of this section. The issuance of such refunding bonds,  
 17 the details thereof, the rights of the holders thereof, and the duties of the Authority in  
 18 respect to them shall be governed by the provisions of this section insofar as  
 19 applicable. The refunding bonds shall mature at such time or times not exceeding 40  
 20 years from the date or dates of their respective issues as determined by the Authority.

21 ~~(L)~~ (K) The Authority may provide by resolution for the issuance of a single  
 22 issue of its revenue bonds for the combined purposes of (1) paying the cost of any  
 23 improvement, extension, enlargement, or reconstruction of a development or project  
 24 and (2) refunding its bonds theretofore issued for such development or project and  
 25 then outstanding and which shall then have matured or be subject to redemption or  
 26 can be acquired for retirement. The revenue refunding bonds shall mature at such  
 27 time or times not exceeding 40 years from the date or dates of their respective issues  
 28 as may be determined by the Authority.

29 ~~(M)~~ (L) (1) All moneys received from any revenue bonds issued and sold  
 30 under the provisions of this section shall be applied [solely] for the purposes for  
 31 which the bonds are authorized [or to a reserve fund created for the payment of the  
 32 bonds, and there is created and granted a lien upon such moneys until so applied in  
 33 favor of the holders of the bonds or paid to the trustee hereinafter provided for the  
 34 bonds].

35 (2) THE AUTHORITY SHALL SET ASIDE A SUFFICIENT AMOUNT OF THE  
 36 REVENUES DERIVED FROM A DEVELOPMENT OR PROJECT IN A SINKING FUND OR  
 37 OTHER SIMILAR FUND:

38 (I) AT REGULAR INTERVALS AS PROVIDED IN THE RESOLUTION OR  
 39 TRUST INDENTURE; AND

40 (II) PLEDGED TO PAYING:

41 1. THE PRINCIPAL OF AND INTEREST ON THE BONDS AS  
 42 THEY BECOME DUE; AND



1 bonds or revenue and to furnish such indemnity bonds or to pledge such securities as  
2 may be required by the Authority.

3 The resolution or trust indenture may set forth the rights and remedies of the  
4 bondholders and of the trustee, and may restrict the individual right of action of  
5 bondholders as is customary in trust indentures securing bonds and debentures of  
6 corporations. Except as in this subtitle otherwise provided, the Authority may provide  
7 by resolution or by the trust indenture for the ~~payment~~ DEPOSIT of the proceeds of the  
8 sale of the bonds and the revenue of a development or project to such officer, board, or  
9 depository as it determines for the custody thereof, and for the method of  
10 disbursement thereof, with such safeguards and restrictions as it determines. All  
11 expenses incurred in carrying out such trust indenture may be treated as a part of the  
12 cost of maintenance, operation and repair of a development or project.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2006.