

HOUSE BILL 196

B3

71r1062

By: **Frederick County Delegation**

Introduced and read first time: January 26, 2007

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2007

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 \$120,000,000 in
5 order to finance the cost of certain public facilities in Frederick County, as
6 herein defined, ~~to finance the payment of any unfunded liability of the County~~
7 ~~to the State Retirement and Pension System of Maryland,~~ and to effect such
8 borrowing by the issuance and sale at public or private sale of its general
9 obligation bonds; empowering the County to fix and determine, by resolution,
10 the form, tenor, interest rate or rates or method of determining the same, terms,
11 conditions, maturities, and all other details incident to the issuance and sale of
12 the bonds; empowering the County to issue refunding bonds for the purchase or
13 redemption of bonds in advance of maturity; empowering and directing the
14 County to levy, impose, and collect, annually, ad valorem taxes in rate and
15 amount sufficient to provide funds for the payment of the maturing principal of
16 and interest on the bonds; exempting the bonds and refunding bonds and the
17 interest thereon and any income derived therefrom from all State, county,
18 municipal, and other taxation in the State of Maryland; providing that nothing
19 in this Act shall prevent the County from authorizing the issuance and sale of
20 bonds the interest on which is not excludable from gross income for federal
21 income tax purposes; providing that such borrowing may be undertaken by

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Frederick County in the form of installment purchase obligations executed and
 2 delivered by Frederick County for the purpose of acquiring agricultural land
 3 and woodland preservation easements; ~~providing that such borrowing may be~~
 4 ~~undertaken by Frederick County to finance the payment of any unfunded~~
 5 ~~liability of Frederick County to the State Retirement and Pension System of~~
 6 ~~Maryland for certain public purposes;~~ and generally relating to the issuance and
 7 sale of the bonds by Frederick County.

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby
 21 authorized to finance any part or all of the costs of the public facilities described in
 22 Section 1 of this Act, ~~to finance the payment of any unfunded liability of the County to~~
 23 ~~the State Retirement and Pension System of Maryland,~~ and to borrow money and
 24 incur indebtedness for ~~those purposes~~ that purpose, at one time or from time to time,
 25 in an amount not exceeding, in the aggregate, \$120,000,000 and to evidence such
 26 borrowing by the issuance and sale upon its full faith and credit of general obligation
 27 bonds, which may be issued at one time or from time to time, in one or more groups or
 28 series, as the County may determine.

29 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued
 30 pursuant to a resolution of the County, which shall describe generally the public
 31 facilities, ~~and the unfunded liability of the County to the State Retirement and~~
 32 ~~Pension System of Maryland,~~ for which the proceeds of the bond sale are intended and
 33 the amount needed for those purposes. The County shall have and is hereby granted
 34 full and complete authority and discretion in the resolution to fix and determine with
 35 respect to the bonds of any issue: the designation, date of issue, denomination or
 36 denominations, form or forms, and tenor of the bonds which, without limitation, may
 37 be issued in registered form within the meaning of Section 30 of Article 31 of the
 38 Annotated Code of Maryland, as amended; the rate or rates of interest payable
 39 thereon, or the method of determining the same, which may include a variable rate;
 40 the date or dates and amount or amounts of maturity, which need not be in equal par

1 amounts or in consecutive annual installments, provided only that no bond of any
2 issue shall mature later than 30 years from the date of its issue; the manner of selling
3 the bonds, which may be at either public or private sale, for such price or prices as
4 may be determined to be for the best interests of Frederick County; the manner of
5 executing and sealing the bonds, which may be by facsimile; ~~the terms and conditions~~
6 ~~of a payment by the County of any unfunded liability of the County to the State~~
7 ~~Retirement and Pension System of Maryland;~~ the terms or conditions, if any, under
8 which bonds may or shall be redeemed prior to their stated maturity; the place or
9 places of payment of the principal of and the interest on the bonds, which may be at
10 any bank or trust company within or without the State of Maryland; covenants
11 relating to compliance with applicable requirements of federal income tax law,
12 including covenants regarding the payment of rebate or penalties in lieu of rebate;
13 covenants relating to compliance with applicable requirements of federal or state
14 securities laws; and generally all matters incident to the terms, conditions, issuance,
15 sale, and delivery thereof.

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

20 In case any officer whose signature appears on any bond ceases to be such
21 officer before the delivery thereof, such signature shall nevertheless be valid and
22 sufficient for all purposes as if he had remained in office until such delivery. The bonds
23 and the issuance and sale thereof shall be exempt from the provisions of Sections 2C,
24 9, 10, and 11 of Article 31 of the Annotated Code of Maryland.

25 If the County determines in the resolution to offer any of the bonds by
26 solicitation of competitive bids at public sale, the resolution shall fix the terms and
27 conditions of the public sale and shall adopt a form of notice of sale, which shall
28 outline the terms and conditions, and a form of advertisement, which may be
29 published in one or more daily or weekly newspapers having a general circulation in
30 the County and which may also be published in one or more journals having a
31 circulation primarily among banks and investment bankers. Upon delivery of any
32 bonds to the purchaser or purchasers, payment therefor shall be made to the
33 Treasurer of Frederick County or such other official of Frederick County as may be
34 designated to receive such payment in a resolution passed by the County
35 Commissioners of Frederick County before delivery. For purposes of issuance and sale,
36 bonds authorized hereunder may be consolidated into a single issue with any other
37 bonds authorized to be issued by the County.

38 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the
39 sale of bonds shall be used and applied exclusively and solely for the public facilities ~~or~~

1 ~~to finance the payment of any unfunded liability of the County to the State Retirement~~
2 ~~and Pension System of Maryland for which the bonds are sold. If the net proceeds of~~
3 ~~the sale of any issue of bonds exceeds the amount needed to finance the public~~
4 ~~facilities described in the resolution or to finance the payment of any unfunded~~
5 ~~liability of the County to the State Retirement and Pension System of Maryland, the~~
6 ~~excess funds so borrowed and not expended shall be applied to the payment of the next~~
7 ~~principal maturity of the bonds or to the redemption of any part of the bonds which~~
8 ~~have been made redeemable or to the purchase and cancellation of bonds, unless the~~
9 ~~County shall adopt a resolution allocating the excess funds to the costs of other public~~
10 ~~facilities.~~

11 ~~SECTION 5. AND BE IT FURTHER ENACTED, That the borrowing authorized~~
12 ~~by this Act to finance the payment of any unfunded liability of the County to the State~~
13 ~~Retirement and Pension System of Maryland may be issued for the public purposes of~~
14 ~~(i) realizing savings with respect to the aggregate cost of the County payment liability~~
15 ~~being funded, on either a direct comparison or present value basis; or (ii) structuring~~
16 ~~or restructuring payment liability costs in a manner that (a) in the aggregate effects a~~
17 ~~reduction in the total cost of the County payment liability as described, or (b) is~~
18 ~~determined by the County to be in the best interests of the County, to be consistent~~
19 ~~with the County's long term financial plan, and to realize a financial objective of the~~
20 ~~County, including improving the relationship of liability payment costs to a source of~~
21 ~~payments such as taxes, assessments or other charges. Any findings made by the~~
22 ~~County in the resolution regarding the public purposes achieved by the issuance of~~
23 ~~bonds for such purposes shall be conclusive.~~

24 SECTION ~~6.~~ 5. AND BE IT FURTHER ENACTED, That the bonds hereby
25 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full
26 faith and credit and unlimited taxing power of the County to the payment of the
27 maturing principal of and interest on the bonds as and when they become payable. In
28 each and every fiscal year that any of the bonds are outstanding, the County shall levy
29 or cause to be levied ad valorem taxes upon all the assessable property within the
30 corporate limits of Frederick County in rate and amount sufficient to provide for or
31 assure the payment, when due, of the principal of and interest on all the bonds
32 maturing in each such fiscal year and, in the event the proceeds from the taxes so
33 levied in any such fiscal year shall prove inadequate for such payment, additional
34 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The
35 County may apply to the payment of the principal of and interest on any bonds issued
36 hereunder any funds received by it from the State of Maryland, the United States of
37 America, any agency or instrumentality thereof, or from any other source. If such
38 funds are granted for the purpose of assisting the County in financing the
39 construction, improvement, development, or renovation of the public facilities defined
40 in this Act and, to the extent of any such funds received or receivable in any fiscal

1 year, the taxes that might otherwise be levied under this Act, may be reduced or need
2 not be levied.

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

23 SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That the County may, prior
24 to the preparation of definitive bonds, issue interim certificates or temporary bonds,
25 with or without coupons, exchangeable for definitive bonds when such bonds have
26 been executed and are available for such delivery, provided, however, that any such
27 interim certificates or temporary bonds shall be issued in all respects subject to the
28 restrictions and requirements set forth in this Act. The County may, by appropriate
29 resolution, provide for the replacement of any bonds issued hereunder which shall
30 have become mutilated or lost or destroyed upon such conditions and after receiving
31 such indemnity as the County may require.

32 SECTION ~~9~~ 8. AND BE IT FURTHER ENACTED, That any and all obligations
33 issued pursuant to the authority of this Act, their transfer, the interest payable
34 thereon, and any income derived therefrom in the hands of the holders thereof from
35 time to time (including any profit made in the sale thereof) shall be and are hereby
36 declared to be at all times exempt from State, county, municipal, or other taxation of
37 every kind and nature whatsoever within the State of Maryland. Nothing in this Act
38 shall prevent the County from authorizing the issuance and sale of bonds the interest
39 on which is not excludable from gross income for federal income tax purposes.

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

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

32 ~~SECTION 12. AND BE IT FURTHER ENACTED, That the borrowing~~
33 ~~authorized by this Act to finance the payment of any unfunded liability of the County~~
34 ~~to the State Retirement and Pension System of Maryland may be issued for the public~~
35 ~~purposes of (i) realizing savings with respect to the aggregate cost of the County~~
36 ~~payment liability being funded, on either a direct comparison or present value basis; or~~
37 ~~(ii) structuring or restructuring payment liability costs in a manner that (a) in the~~
38 ~~aggregate effects a reduction in the total cost of the County payment liability as~~
39 ~~described, or (b) is determined by the County to be in the best interests of the County,~~
40 ~~to be consistent with the County's long term financial plan, and to realize a financial~~
41 ~~objective of the County, including improving the relationship of liability payment costs~~

1 ~~to a source of payments such as taxes, assessments or other charges. Any findings~~
2 ~~made by the County in the resolution regarding the public purposes achieved by the~~
3 ~~issuance of bonds for such purposes shall be conclusive.~~

4 SECTION ~~13~~ 11. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect June 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.