

# SENATE BILL 957

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CF HB 196

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By: **Senators Brinkley and Mooney**

Introduced and read first time: February 28, 2007

Assigned to: Rules

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## 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 \$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  
22 Frederick County in the form of installment purchase obligations executed and  
23 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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Maryland for certain public purposes; and generally relating to the issuance and  
2 sale of the bonds by Frederick County.

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

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued  
25 pursuant to a resolution of the County, which shall describe generally the public  
26 facilities, and the unfunded liability of the County to the State Retirement and  
27 Pension System of Maryland, for which the proceeds of the bond sale are intended and  
28 the amount needed for those purposes. The County shall have and is hereby granted  
29 full and complete authority and discretion in the resolution to fix and determine with  
30 respect to the bonds of any issue: the designation, date of issue, denomination or  
31 denominations, form or forms, and tenor of the bonds which, without limitation, may  
32 be issued in registered form within the meaning of Section 30 of Article 31 of the  
33 Annotated Code of Maryland, as amended; the rate or rates of interest payable  
34 thereon, or the method of determining the same, which may include a variable rate;  
35 the date or dates and amount or amounts of maturity, which need not be in equal par  
36 amounts or in consecutive annual installments, provided only that no bond of any  
37 issue shall mature later than 30 years from the date of its issue; the manner of selling  
38 the bonds, which may be at either public or private sale, for such price or prices as  
39 may be determined to be for the best interests of Frederick County; the manner of  
40 executing and sealing the bonds, which may be by facsimile; the terms and conditions

1 of a payment by the County of any unfunded liability of the County to the State  
2 Retirement and Pension System of Maryland; the terms or conditions, if any, under  
3 which bonds may or shall be redeemed prior to their stated maturity; the place or  
4 places of payment of the principal of and the interest on the bonds, which may be at  
5 any bank or trust company within or without the State of Maryland; covenants  
6 relating to compliance with applicable requirements of federal income tax law,  
7 including covenants regarding the payment of rebate or penalties in lieu of rebate;  
8 covenants relating to compliance with applicable requirements of federal or state  
9 securities laws; and generally all matters incident to the terms, conditions, issuance,  
10 sale, and delivery thereof.

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

15 In case any officer whose signature appears on any bond ceases to be such  
16 officer before the delivery thereof, such signature shall nevertheless be valid and  
17 sufficient for all purposes as if he had remained in office until such delivery. The bonds  
18 and the issuance and sale thereof shall be exempt from the provisions of Sections 2C,  
19 9, 10, and 11 of Article 31 of the Annotated Code of Maryland.

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

33 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the  
34 sale of bonds shall be used and applied exclusively and solely for the public facilities or  
35 to finance the payment of any unfunded liability of the County to the State Retirement  
36 and Pension System of Maryland for which the bonds are sold. If the net proceeds of  
37 the sale of any issue of bonds exceeds the amount needed to finance the public  
38 facilities described in the resolution or to finance the payment of any unfunded  
39 liability of the County to the State Retirement and Pension System of Maryland, the

1 excess funds so borrowed and not expended shall be applied to the payment of the next  
2 principal maturity of the bonds or to the redemption of any part of the bonds which  
3 have been made redeemable or to the purchase and cancellation of bonds, unless the  
4 County shall adopt a resolution allocating the excess funds to the costs of other public  
5 facilities.

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

19 SECTION 6. AND BE IT FURTHER ENACTED, That the bonds hereby  
20 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full  
21 faith and credit and unlimited taxing power of the County to the payment of the  
22 maturing principal of and interest on the bonds as and when they become payable. In  
23 each and every fiscal year that any of the bonds are outstanding, the County shall levy  
24 or cause to be levied ad valorem taxes upon all the assessable property within the  
25 corporate limits of Frederick County in rate and amount sufficient to provide for or  
26 assure the payment, when due, of the principal of and interest on all the bonds  
27 maturing in each such fiscal year and, in the event the proceeds from the taxes so  
28 levied in any such fiscal year shall prove inadequate for such payment, additional  
29 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The  
30 County may apply to the payment of the principal of and interest on any bonds issued  
31 hereunder any funds received by it from the State of Maryland, the United States of  
32 America, any agency or instrumentality thereof, or from any other source. If such  
33 funds are granted for the purpose of assisting the County in financing the  
34 construction, improvement, development, or renovation of the public facilities defined  
35 in this Act and, to the extent of any such funds received or receivable in any fiscal  
36 year, the taxes that might otherwise be levied under this Act, may be reduced or need  
37 not be levied.

38 SECTION 7. AND BE IT FURTHER ENACTED, That the County is hereby  
39 further authorized and empowered, at any time and from time to time, to issue its  
40 bonds in the manner herein above described for the purpose of refunding, by payment

1 at maturity or upon purchase or redemption, any bonds issued hereunder. The validity  
2 of any such refunding bonds shall in no way be dependent upon or related to the  
3 validity or invalidity of the obligations so refunded. The powers herein granted with  
4 respect to the issuance of bonds shall be applicable to the issuance of refunding bonds.  
5 Such refunding bonds may be issued by the County for the purpose of providing it with  
6 funds to pay any of its outstanding bonds issued hereunder at maturity, for the  
7 purpose of providing it with funds to purchase in the open market any of its  
8 outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose  
9 of providing it with funds for the redemption prior to maturity of any outstanding  
10 bonds issued hereunder which are, by their terms, redeemable, for the purpose of  
11 providing it with funds to pay interest on any outstanding bonds issued hereunder  
12 prior to their payment at maturity of purchase or redemption in advance of maturity,  
13 or for the purpose of providing it with funds to pay any redemption or purchase  
14 premium in connection with the refunding of any of its outstanding bonds issued  
15 hereunder. The proceeds of the sale of any such refunding bonds shall be segregated  
16 and set apart by the County as a separate trust fund to be used solely for the purpose  
17 of paying the purchase or redemption prices of the bonds to be refunded.

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

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

35 SECTION 10. AND BE IT FURTHER ENACTED, That the authority to borrow  
36 money and issue bonds conferred on the County by this Act shall be deemed to provide  
37 additional, alternative, and supplemental authority for borrowing money and shall be  
38 regarded as supplemental and additional to powers conferred upon the County by  
39 other laws and shall not be regarded as in derogation of any power now existing; and  
40 all Acts of the General Assembly of Maryland heretofore passed authorizing the

1 County to borrow money are hereby continued to the extent that the powers contained  
2 in such Acts have not been exercised, and nothing contained in this Act may be  
3 construed to impair, in any way, the validity of any bonds that may have been issued  
4 by the County under the authority of any said Acts, and the validity of the bonds is  
5 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of  
6 the inhabitants of Frederick County, shall be liberally construed to effect the purposes  
7 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are  
8 hereby repealed to the extent of such inconsistency.

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

26 SECTION 12. AND BE IT FURTHER ENACTED, That the borrowing  
27 authorized by this Act to finance the payment of any unfunded liability of the County  
28 to the State Retirement and Pension System of Maryland may be issued for the public  
29 purposes of (i) realizing savings with respect to the aggregate cost of the County  
30 payment liability being funded, on either a direct comparison or present value basis; or  
31 (ii) structuring or restructuring payment liability costs in a manner that (a) in the  
32 aggregate effects a reduction in the total cost of the County payment liability as  
33 described, or (b) is determined by the County to be in the best interests of the County,  
34 to be consistent with the County's long-term financial plan, and to realize a financial  
35 objective of the County, including improving the relationship of liability payment costs  
36 to a source of payments such as taxes, assessments or other charges. Any findings  
37 made by the County in the resolution regarding the public purposes achieved by the  
38 issuance of bonds for such purposes shall be conclusive.

39 SECTION 13. AND BE IT FURTHER ENACTED, That this Act shall take  
40 effect June 1, 2007.