

# SENATE BILL 957

B3

71r3324  
CF HB 196

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By: **Senators Brinkley and Mooney**

Introduced and read first time: February 28, 2007

Assigned to: Rules

Re-referred to: Budget and Taxation, March 2, 2007

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 24, 2007

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## 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

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

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

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

30 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued  
31 pursuant to a resolution of the County, which shall describe generally the public  
32 facilities, and the unfunded liability of the County to the State Retirement and  
33 Pension System of Maryland, for which the proceeds of the bond sale are intended and  
34 the amount needed for those purposes. The County shall have and is hereby granted  
35 full and complete authority and discretion in the resolution to fix and determine with  
36 respect to the bonds of any issue: the designation, date of issue, denomination or  
37 denominations, form or forms, and tenor of the bonds which, without limitation, may  
38 be issued in registered form within the meaning of Section 30 of Article 31 of the  
39 Annotated Code of Maryland, as amended; the rate or rates of interest payable  
40 thereon, or the method of determining the same, which may include a variable rate;

1 the date or dates and amount or amounts of maturity, which need not be in equal par  
2 amounts or in consecutive annual installments, provided only that no bond of any  
3 issue shall mature later than 30 years from the date of its issue; the manner of selling  
4 the bonds, which may be at either public or private sale, for such price or prices as  
5 may be determined to be for the best interests of Frederick County; the manner of  
6 executing and sealing the bonds, which may be by facsimile; the terms and conditions  
7 of a payment by the County of any unfunded liability of the County to the State  
8 Retirement and Pension System of Maryland; the terms or conditions, if any, under  
9 which bonds may or shall be redeemed prior to their stated maturity; the place or  
10 places of payment of the principal of and the interest on the bonds, which may be at  
11 any bank or trust company within or without the State of Maryland; covenants  
12 relating to compliance with applicable requirements of federal income tax law,  
13 including covenants regarding the payment of rebate or penalties in lieu of rebate;  
14 covenants relating to compliance with applicable requirements of federal or state  
15 securities laws; and generally all matters incident to the terms, conditions, issuance,  
16 sale, and delivery thereof.

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

21 In case any officer whose signature appears on any bond ceases to be such  
22 officer before the delivery thereof, such signature shall nevertheless be valid and  
23 sufficient for all purposes as if he had remained in office until such delivery. The bonds  
24 and the issuance and sale thereof shall be exempt from the provisions of Sections 2C,  
25 9, 10, and 11 of Article 31 of the Annotated Code of Maryland.

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

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

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

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

1 in this Act and, to the extent of any such funds received or receivable in any fiscal  
2 year, the taxes that might otherwise be levied under this Act, may be reduced or need  
3 not be levied.

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

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

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

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

15           SECTION 11. 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

1 objective of the County, including improving the relationship of liability payment costs  
2 to a source of payments such as taxes, assessments or other charges. Any findings  
3 made by the County in the resolution regarding the public purposes achieved by the  
4 issuance of bonds for such purposes shall be conclusive.

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.