

SENATE BILL 818

B5

9lr2437

By: **Senators Jones and McFadden**

Introduced and read first time: February 6, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **General Obligation Bonds – Required Reports**

3 FOR the purpose of requiring an enabling act authorizing the creation of a State debt
4 that is for more than a certain amount to contain a provision that requires a
5 certain grantee to submit a certain report to certain persons by a certain date
6 regarding the extent to which the grantee has used, or will use, certain funds
7 for contracts with minority-owned businesses for the purchase of goods,
8 services, construction, or construction services under certain circumstances; and
9 generally relating to the provisions of an enabling act authorizing the creation
10 of a State debt.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 8–117
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2008 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – State Finance and Procurement**

19 8–117.

20 (a) The General Assembly may authorize the Board to:

21 (1) borrow money for any public purpose; and

22 (2) issue State bonds to evidence the debt.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) An enabling act shall specify the total principal amount of the debt
2 authorized by the enabling act.

3 (c) An enabling act may take substantially the following form:

4 "A BILL ENTITLED

5 AN ACT concerning

6 Creation of a State Debt – (Name of Project)

7 FOR the purpose of authorizing the creation of a State debt not to exceed \$....., (for an
8 enabling act that requires an equal matching fund)/ in the amount of \$....., (for an
9 enabling act that requires no matching fund or a lesser matching fund) the
10 proceeds to be used as a grant to (name of grantee) for certain development or
11 improvement purposes; providing for disbursement of the loan proceeds, subject
12 to the requirement that the grantee provide and expend a matching fund (if the
13 enabling act requires a matching fund); and providing generally for the issuance
14 and sale of bonds evidencing the loan.

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That:

17 (1) The Board of Public Works may borrow money and incur indebtedness on
18 behalf of the State of Maryland through a State loan to be known as the ... (name of
19 project) Loan of ... (year) equal to the lesser of (i) \$... or (ii) the amount of the matching
20 fund provided in accordance with Section 1(5) below. (For an enabling act that requires
21 an equal matching fund)/ in the total principal amount of \$..... (for an enabling act that
22 requires no matching fund or a lesser matching fund). This loan shall be evidenced by
23 the issuance, sale, and delivery of State general obligation bonds authorized by a
24 resolution of the Board of Public Works and issued, sold, and delivered in accordance
25 with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article
26 31, § 22 of the Code.

27 (2) The bonds to evidence this loan or installments of this loan may be sold as a
28 single issue or may be consolidated and sold as part of a single issue of bonds under §
29 8–122 of the State Finance and Procurement Article.

30 (3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and
31 first shall be applied to the payment of the expenses of issuing, selling, and delivering
32 the bonds, unless funds for this purpose are otherwise provided, and then shall be
33 credited on the books of the Comptroller and expended, on approval by the Board of
34 Public Works, for the following public purposes, including any applicable architects'
35 and engineers' fees: as a grant to (name of grantee) (referred to hereafter in this
36 Act as "the grantee") (for an enabling act that requires a matching fund) for (here state
37 the purpose or purposes to which the proceeds of the bonds are to be applied).

38 (4) An annual State tax is imposed on all assessable property in the State in rate

1 and amount sufficient to pay the principal of and interest on the bonds, as and when
2 due and until paid in full. The principal shall be discharged within 15 years after the
3 date of issue of the bonds.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 June 1, (year)".

6 (d) (1) If an enabling act requires an equal matching fund, the fifth
7 paragraph is as follows:

8 "(5) Prior to the payment of any funds under the provisions of this Act for the
9 purposes set forth in Section 1(3) above, the grantee shall provide and expend a
10 matching fund. No part of the grantee's matching fund may be provided, either
11 directly or indirectly, from funds of the State, whether appropriated or
12 unappropriated. No part of the fund may consist of real property, in kind
13 contributions, or funds expended prior to the effective date of this Act. In case of any
14 dispute as to the amount of the matching fund or what money or assets may qualify as
15 matching funds, the Board of Public Works shall determine the matter and the Board's
16 decision is final. The grantee has until June 1, ... (2 years from the effective date of the
17 Act), to present evidence satisfactory to the Board of Public Works that a matching
18 fund will be provided. If satisfactory evidence is presented, the Board shall certify this
19 fact and the amount of the matching fund to the State Treasurer, and the proceeds of
20 the loan equal to the amount of the matching fund shall be expended for the purposes
21 provided in this Act. Any amount of the loan in excess of the amount of the matching
22 fund certified by the Board of Public Works shall be canceled and be of no further
23 effect."

24 (2) If an enabling act requires a lesser matching fund, the fifth
25 paragraph is as follows:

26 "(5) Prior to the payment of any funds under the provisions of this Act for the
27 purposes set forth in Section 1(3) above, the grantee shall provide and expend a
28 matching fund of \$..., (amount of the matching fund to be provided by the grantee). No
29 part of the grantee's matching fund may be provided, either directly or indirectly, from
30 funds of the State, whether appropriated or unappropriated. No part of the fund may
31 consist of real property, in kind contributions, or funds expended prior to the effective
32 date of this Act. In case of any dispute as to the amount of the matching fund or what
33 money or assets may qualify as matching funds, the Board of Public Works shall
34 determine the matter and the Board's decision is final. The grantee has until June 1,
35 ... (2 years from the effective date of the Act), to present evidence satisfactory to the
36 Board of Public Works that a matching fund will be provided. If satisfactory evidence
37 is presented, the Board shall certify this fact to the State Treasurer, and the proceeds
38 of the loan shall be expended for the purposes provided in this Act."

39 (e) An enabling act may also contain the following paragraph:

40 "The proceeds of the loan must be expended or encumbered by the Board of
41 Public Works for the purposes provided in this Act no later than June 1, (7 years

1 from the effective date of the Act). If any funds authorized by this Act remain
2 unexpended or unencumbered after June 1, ... (7 years from the effective date of the
3 Act), the amount of the unencumbered or unexpended authorization shall be canceled
4 and be of no further effect. If bonds have been issued for the loan, the amount of
5 unexpended or unencumbered bond proceeds shall be disposed of as provided in §
6 8–129 of the State Finance and Procurement Article.”.

7 (f) An enabling act under this section may contain:

8 (1) an additional provision for all or part of the principal of and
9 interest on the State bonds issued under the enabling act to be paid primarily from
10 sources of funds other than a State tax on assessable property; and

11 (2) any other additional provision that is appropriate to the purpose of
12 the enabling act and the nature of State bonds.

13 (G) **IN AN ENABLING ACT AUTHORIZING THE CREATION OF A STATE**
14 **DEBT THAT IS FOR \$150,000 OR MORE, THE ENABLING ACT SHALL CONTAIN THE**
15 **FOLLOWING PARAGRAPH:**

16 **“ON OR BEFORE DECEMBER 31 OF ANY YEAR IN WHICH THE PAYMENT OF**
17 **ANY FUNDS UNDER THE PROVISIONS OF THIS ACT FOR THE PURPOSES SET**
18 **FORTH IN SECTION 1(3) ABOVE IS MADE AND ON OR BEFORE DECEMBER 31 OF**
19 **THE YEAR FOLLOWING A YEAR IN WHICH THE PAYMENT OF ANY FUNDS UNDER**
20 **THE PROVISIONS OF THIS ACT FOR THE PURPOSES SET FORTH IN SECTION 1(3)**
21 **ABOVE IS MADE, THE GRANTEE SHALL SUBMIT A REPORT TO THE BOARD OF**
22 **PUBLIC WORKS, THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS, THE**
23 **MARYLAND DEPARTMENT OF TRANSPORTATION, AND THE GENERAL**
24 **ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT**
25 **ARTICLE, ON THE EXTENT TO WHICH THE GRANTEE HAS USED, OR WILL USE,**
26 **ANY PART OF THE FUNDS RECEIVED UNDER THE PROVISIONS OF THIS ACT FOR**
27 **CONTRACTS WITH MINORITY–OWNED BUSINESSES FOR THE PURCHASE OF**
28 **GOODS, SERVICES, CONSTRUCTION, OR CONSTRUCTION SERVICES.”.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 June 1, 2009.