

Chapter 398

(House Bill 209)

AN ACT concerning

General Obligation Bonds for Capital Projects – Required Reports

FOR the purpose of requiring that an enabling act for certain projects that authorizes the creation of a State debt for at least a certain amount to be used by certain entities contain a provision that requires the grantee to submit certain reports to the Governor's Office of Minority Affairs by certain dates regarding the extent to which the entity has used, or will use, certain funds for contracts with minority-owned businesses; requiring that the Governor's Office of Minority Affairs provide a certain form and annually report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the provisions of an enabling act authorizing the creation of a State debt.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–117
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

8–117.

- (a) The General Assembly may authorize the Board to:
 - (1) borrow money for any public purpose; and
 - (2) issue State bonds to evidence the debt.
- (b) An enabling act shall specify the total principal amount of the debt authorized by the enabling act.
- (c) An enabling act may take substantially the following form:

“A BILL ENTITLED

AN ACT concerning

Creation of a State Debt – (Name of Project)

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

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

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

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

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

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issue of the bonds.

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

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

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

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

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

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

"The proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, (7 years from the effective date of the Act). If any funds authorized by this Act remain unexpended or unencumbered after June 1, (7 years from the effective date of the

Act), the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8-129 of the State Finance and Procurement Article.”.

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

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

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

(G) (1) AN ENABLING ACT FOR A CAPITAL PROJECT THAT AUTHORIZES THE CREATION OF A STATE DEBT OF AT LEAST \$500,000 FOR A HOSPITAL OR INSTITUTION OF HIGHER EDUCATION THAT IS NOT SUBJECT TO THE REPORTING REQUIREMENT UNDER ~~§ 24-305~~ § 14-305 OF THIS ARTICLE SHALL INCLUDE THE FOLLOWING PARAGRAPH:

“ON OR BEFORE DECEMBER 31 OF ANY YEAR IN WHICH THE PAYMENT OF ANY FUNDS UNDER THE PROVISIONS OF THIS ACT FOR THE PURPOSES OF A CAPITAL PROJECT AS SET FORTH IN SECTION 1(3) ABOVE IS MADE AND ON OR BEFORE DECEMBER 31 OF THE YEAR FOLLOWING A YEAR IN WHICH THE PAYMENT OF ANY FUNDS UNDER THE PROVISIONS OF THIS ACT FOR THE PURPOSES SET FORTH IN SECTION 1(3) ABOVE IS MADE, THE GRANTEE SHALL SUBMIT A REPORT TO THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS ON THE EXTENT TO WHICH THE GRANTEE HAS USED, OR WILL USE, ANY PART OF THE FUNDS RECEIVED UNDER THE PROVISIONS OF THIS ACT FOR CONTRACTS WITH MINORITY-OWNED BUSINESSES AND ANY MINORITY BUSINESS OUTREACH EFFORTS.”

(2) THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS SHALL PROVIDE A SINGLE FORM FOR ALL REPORTS SUBMITTED UNDER THIS SUBSECTION.

(3) ON OR BEFORE ~~DECEMBER 1~~ JULY 1 OF EACH YEAR, THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE INFORMATION SUBMITTED TO THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of 3 years and, at the end of September 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.