COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2020 Legislative Session

BILL NO. 2020-07

Introduced by Charles County Commissioners

BY adding: Chapter 299. Resilience Authority Sections 299.01 through 299.15

Date introduced: 11/17/2020

Public Hearing: 12/08/2020 @ 6:00 p.m.

Commissioners Action: 12/08/2020


Pass/Fail: Pass

Effective Date: 01/22/2021

Remarks:

NOTE: CAPITALS indicate matter added to existing text. [Brackets] indicate matter deleted from existing law.
COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2020 Legislative Session

Bill No. 2020-07
Chapter. No. 299
Introduced by Charles County Commissioners
Date of Introduction 11/17/2020

BILL

AN ACT concerning:

Resilience Authority of Charles County

FOR the purpose of

Establishing the creation of a Resilience Authority that is empowered to secure financing
for resilience infrastructure projects that mitigate the effects of climate change in Charles
County as set forth in Title 22 of the Local Government Article of the Annotated Code of
Maryland.

BY adding:

Chapter 299. Resilience Authority
Sections 299.01 through 299.15
Code of Charles County, Maryland
(2019 Edition)

SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF
CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland, read as
follows:

CHAPTER 299 – RESILIENCE AUTHORITY.

SECTION 299.01. PURPOSE.

THE RESILIENCE AUTHORITY OF CHARLES COUNTY WILL UNDERTAKE AND
SUPPORT RESILIENCE INFRASTRUCTURE PROJECTS, THAT MITIGATE THE EFFECTS
OF CLIMATE CHANGE BY OFFERING A RANGE OF FINANCING STRUCTURES,
FORMS, AND TECHNIQUES AND LEVERAGES PUBLIC AND PRIVATE INVESTMENT AND STIMULATES DEMAND FOR RESILIENCE INFRASTRUCTURE PROJECTS THROUGHOUT CHARLES COUNTY.

SECTION 299.02. DECLARATION OF NEED.

(1) THE IMPACTS FROM CLIMATE CHANGE ARE HAPPENING NOW IN COMMUNITIES ACROSS THE STATE OF MARYLAND; AND

(2) THESE IMPACTS INCLUDE RISING TEMPERATURES, MAJOR RAIN AND STORM EVENTS, SEA LEVEL RISE, AND CHANGES IN PRECIPITATION PATTERNS; AND

(3) THOSE THINGS THAT MARYLAND COMMUNITIES DEPEND UPON AND VALUE—NATURAL RESOURCES AND ECOSYSTEMS, ENERGY, TRANSPORTATION, AGRICULTURE, CULTURAL AND HISTORIC RESOURCES, HUMAN HEALTH, AND ECONOMIC GROWTH—ARE EXPERIENCING, AND WILL CONTINUE TO EXPERIENCE, THE EFFECTS OF CLIMATE CHANGES; AND

(4) COMMUNITIES IN COASTAL STATES ACCOUNT FOR NEARLY HALF OF THE NATION’S POPULATION AND ECONOMIC ACTIVITY, AND THAT CUMULATIVE DAMAGE TO PROPERTY IN THOSE AREAS COULD REACH $3.5 TRILLION BY 2060; AND

(5) LOCAL GOVERNMENTS WILL BEAR MUCH OF THE RESPONSIBILITY AND COST REQUIRED TO MITIGATE THE IMPACTS OF CLIMATE CHANGE THROUGH INFRASTRUCTURE INVESTMENT; AND

(6) A RESILIENCE AUTHORITY CAN WORK IN PARTNERSHIP WITH CHARLES COUNTY TO ACCELERATE INFRASTRUCTURE FINANCING, REDUCE THE COST OF IMPLEMENTATION, AND MITIGATE AND MANAGE THE RISKS OF CLIMATE CHANGE.

SECTION 299.03. DEFINITIONS.

IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS

Asterisks *** mean intervening code language remaining unchanged
NOTE: CAPITALS indicate language added to existing law.
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EXISTING.

(1) "BOND" MEANS AN OBLIGATION FOR THE PAYMENT OF MONEY, BY
WHATEVER NAME KNOWN OR SOURCE OF FUNDS SECURED, ISSUED BY
THE CHARLES COUNTY GOVERNMENT OR THE RESILIENCE AUTHORITY
UNDER STATE AND LOCAL GENERAL OR SPECIAL STATUTORY AUTHORITY.

(2) "BOND" INCLUDES A REFUNDING BOND, A NOTE, AND ANY OTHER
OBLIGATION.

(3) "CAPITAL COSTS" MEANS COSTS INCURRED FOR ACQUISITION, PLANNING,
DESIGN, CONSTRUCTION, REPAIR, RENOVATION, RECONSTRUCTION,
EXPANSION, SITE IMPROVEMENT, AND CAPITAL EQUIPPING.

(4) "CHIEF EXECUTIVE" MEANS THE PRESIDENT OF THE BOARD OF
COMMISSIONERS.

(5) "CLIMATE CHANGE" INCLUDES SEA LEVEL RISE, NUISANCE FLOODING,
INCREASED RAINFALL EVENTS, EROSION, AND TEMPERATURE RISE.

(6) "LOCAL LAW" MEANS A LEGISLATIVE ACT OF CHARLES COUNTY.

(7) "RESILIENCE AUTHORITY" MEANS THE AUTHORITY INCORPORATED BY
CHARLES COUNTY IN ACCORDANCE WITH THIS CHAPTER WHOSE PURPOSE IS
TO UNDERTAKE OR SUPPORT RESILIENCE INFRASTRUCTURE PROJECTS.

(8) (A) "RESILIENCE INFRASTRUCTURE" MEANS INFRASTRUCTURE THAT
MITIGATES THE EFFECTS OF CLIMATE CHANGE.

(B) "RESILIENCE INFRASTRUCTURE" INCLUDES FLOOD BARRIERS, GREEN
SPACES, BUILDING ELEVATION, AND STORMWATER INFRASTRUCTURE.

(9) "RESILIENCE INFRASTRUCTURE PROJECT" MEANS A PROJECT TO FINANCE
OR REFINANCE THE CAPITAL COSTS ASSOCIATED WITH RESILIENCE
INFRASTRUCTURE.

SECTION 299.04. COUNTY AUTHORIZATION

(A) CHARLES COUNTY IS AUTHORIZED TO CREATE A RESILIENCE AUTHORITY

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BY LOCAL LAW IN ACCORDANCE WITH THIS CHAPTER.

(B) THIS LOCAL LAW IS ADOPTED UNDER THIS SECTION:
  (1) IS ADMINISTRATIVE IN NATURE; AND
  (2) IS NOT SUBJECT TO REFERENDUM.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUBSECTION (A) OF THIS SECTION IS SELF-EXECUTING AND FULLY AUTHORIZES CHARLES COUNTY TO ESTABLISH A RESILIENCE AUTHORITY.

(D) THE LOCAL LAW ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE PROPOSED ARTICLES OF INCORPORATION OF THE RESILIENCE AUTHORITY OF CHARLES COUNTY THAT STATE THE FOLLOWING:

  (1) THE NAME OF THE RESILIENCE AUTHORITY, SHALL BE THE "RESILIENCE AUTHORITY OF CHARLES COUNTY";
  (2) THE RESILIENCE AUTHORITY IS FORMED UNDER THIS CHAPTER;
  (3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL MEMBERS OF THE BOARD OF DIRECTORS OF THE RESILIENCE AUTHORITY ARE ENUMERATED IN THE GOVERNING BYLAWS THAT ARE HEREBY INCORPORATED BY REFERENCE;
  (4) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE RESILIENCE AUTHORITY OF CHARLES COUNTY IS 200 BALTIMORE AVENUE, LA PLATA, MARYLAND 20646;
  (5) THE PURPOSES FOR WHICH THE RESILIENCE AUTHORITY IS FORMED; AND
  (6) THE POWERS OF THE RESILIENCE AUTHORITY, SUBJECT TO THE LIMITATIONS ON THE POWERS OF A RESILIENCE AUTHORITY UNDER THIS CHAPTER.

(E) (1) THE PRESIDENT OF THE BOARD OF COMMISSIONERS, OR ANY

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OTHER OFFICIAL DESIGNATED IN THIS LOCAL LAW ESTABLISHING THE RESILIENCE AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE RESILIENCE AUTHORITY FOR RECORD WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(2) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORD:

(I) THE RESILIENCE AUTHORITY BECOMES A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF CHARLES COUNTY GOVERNMENT; AND

(II) THE PRESIDENT OF THE BOARD OF COMMISSIONERS, OR ANY OTHER OFFICIAL DESIGNATED IN THE LOCAL LAW ESTABLISHING THE RESILIENCE AUTHORITY, SHALL SUBMIT THE ARTICLES OF INCORPORATION, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO:

1. THE SENATE BUDGET AND TAXATION COMMITTEE AND THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE; AND

2. THE HOUSE APPROPRIATIONS COMMITTEE AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.


(F) (1) THE BOARD OF COMMISSIONERS SHALL APPROVE ANY AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE RESILIENCE AUTHORITY.

(2) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE AMENDMENT.
(3) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR
RECORD WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(4) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE
TIME THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE
ARTICLES FOR RECORD.

(5) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR RECORD
BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE
EVIDENCE THAT THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY
ADOPTED.

(G) (1) SUBJECT TO THE PROVISIONS OF THIS CHAPTER AND ANY
LIMITATIONS IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, THE
CHARLES COUNTY GOVERNMENT, IN ITS SOLE DISCRETION, BY
LOCAL LAW MAY:

(I) SET OR CHANGE THE POWERS, STRUCTURE,
ORGANIZATION, PROCEDURES, PROGRAMS, OR ACTIVITIES OF THE RESILIENCE
AUTHORITY;

(II) DETERMINE THE REVENUE SOURCES OF THE
RESILIENCE AUTHORITY, INCLUDING THE USE OF GENERAL FUND REVENUE AND
GENERAL OBLIGATION BONDS;

(III) ESTABLISH THE BUDGETARY AND FINANCIAL
PROCEDURES OF THE RESILIENCE AUTHORITY; AND

(IV) TERMINATE THE RESILIENCE AUTHORITY.

(2) ON TERMINATION OF A RESILIENCE AUTHORITY:

(I) TITLE TO ALL PROPERTY OF THE RESILIENCE
AUTHORITY SHALL BE TRANSFERRED TO AND BE VESTED IN THE CHARLES
COUNTY GOVERNMENT; AND
(II) ALL OBLIGATIONS OF THE RESILIENCE AUTHORITY
shall be transferred to and assumed by the Charles County
Government.

SECTION 299.05. OFFICERS AND EMPLOYEES.

(A) Officers governing the Resilience Authority and
employees of the Resilience Authority shall be appointed or hired
as provided by local law and the bylaws of the Resilience
Authority.

(B) Except as otherwise provided in this chapter, the
procedures of the Charles County Government control any
personnel matter relating to the internal administration of the
Resilience Authority.

SECTION 299.06. EARNINGS AND BENEFITS.

Except as necessary to pay debt service or implement the public
purposes or programs of the Charles County Government, the net
earnings of the Resilience Authority of Charles County may benefit
only the Charles County Government and may not benefit any
person.

SECTION 299.07. POWERS OF THE RESILIENCE AUTHORITY.

(A) Except as limited by the local law establishing the
Resilience Authority or its articles of incorporation, the Resilience
Authority has all the powers under this chapter.

(B) The Resilience Authority has and may exercise all powers
necessary or convenient to undertake, finance, manage, acquire,
own, convey, or support Resilience infrastructure projects,
including the power to:

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(1) ACQUIRE BY PURCHASE, LEASE, OR OTHER LEGAL MEANS, BUT NOT BY EMINENT DOMAIN, PROPERTY FOR RESILIENCE INFRASTRUCTURE;

(2) ESTABLISH, CONSTRUCT, ALTER, IMPROVE, EQUIP, REPAIR, MAINTAIN, OPERATE, AND REGULATE RESILIENCE INFRASTRUCTURE OWNED BY THE CHARLES COUNTY GOVERNMENT OR THE RESILIENCE AUTHORITY;

(3) RECEIVE MONEY FROM THE CHARLES COUNTY GOVERNMENT, THE STATE, OTHER GOVERNMENTAL UNITS, OR PRIVATE ORGANIZATIONS;

(4) CHARGE AND COLLECT FEES FOR ITS SERVICES;

(5) SUBJECT TO THE APPROVAL OF THE BOARD OF COMMISSIONERS, CHARGE AND COLLECT FEES TO BACK ITS BOND ISSUANCES;

(6) HAVE EMPLOYEES AND CONSULTANTS AS IT CONSIDERS NECESSARY;

(7) USE THE SERVICES OF OTHER GOVERNMENTAL UNITS; AND

(8) ACT AS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED TO IT BY LAW.

SECTION 299.08. BOND ISSUANCE.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE RESILIENCE AUTHORITY MAY ISSUE AND SELL BONDS PERIODICALLY:

(1) FOR RESILIENCE INFRASTRUCTURE PROJECTS;

(2) TO REFUND OUTSTANDING BONDS;

(3) TO PAY THE COSTS OF PREPARING, PRINTING, SELLING, AND ISSUING THE BONDS;

(4) TO FUND RESERVES; AND

(5) TO PAY THE INTEREST ON THE BONDS IN THE AMOUNT AND FOR THE PERIOD THE RESILIENCE AUTHORITY CONSIDERS REASONABLE.

(B) BONDS ISSUED BY THE RESILIENCE AUTHORITY ARE

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LIMITED OBLIGATIONS AND ARE NOT A PLEDGE OF THE FAITH AND
CREDIT OR TAXING POWER OF THE CHARLES COUNTY GOVERNMENT.

SECTION 299.09. BONDS RESOLUTIONS.

(A) FOR EACH ISSUE OF ITS BONDS, THE RESILIENCE AUTHORITY SHALL
ADOPT A RESOLUTION THAT:

(1) SPECIFIES AND DESCRIBES THE RESILIENCE INFRASTRUCTURE;
(2) GENERALLY, DESCRIBES THE PUBLIC PURPOSE TO BE SERVED AND
THE FINANCING TRANSACTION;
(3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT
MAY BE ISSUED; AND
(4) IMPOSES TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF
BONDS IT CONSIDERS APPROPRIATE.

(B) THE RESILIENCE AUTHORITY, BY RESOLUTION, MAY:

(1) SPECIFY, DETERMINE, PRESCRIBE, AND APPROVE MATTERS,
DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION,
SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE
BONDS;
(2) CREATE SECURITY FOR THE BONDS;
(3) PROVIDE FOR THE ADMINISTRATION OF BOND ISSUES THROUGH
TRUST OR OTHER AGREEMENTS WITH A BANK OR TRUST COMPANY THAT
COVER A COUNTERSIGNATURE ON A BOND, THE DELIVERY OF A BOND, OR
THE SECURITY FOR A BOND; AND
(4) TAKE OTHER ACTION IT CONSIDERS APPROPRIATE CONCERNING
THE BONDS.

SECTION 299.10. BONDS; TAXES; CONTRACTS.

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(A) THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF
BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS
MADE IN THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM STATE
AND LOCAL TAXES.

(B) A CONTRACT FOR A RESILIENCE INFRASTRUCTURE PROJECT MAY
PROVIDE THAT PAYMENT SHALL BE MADE IN BONDS.

(C) A BOND IS NOT SUBJECT TO THE LIMITATIONS OF §§ 19–205 AND 19–206
OF THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF
MARYLAND.

SECTION 299.11. FINDINGS AS TO PUBLIC PURPOSE.

A FINDING BY THE BOARD OF COMMISSIONERS OR THE BOARD OF
DIRECTORS OF THE RESILIENCE AUTHORITY AS TO THE PUBLIC PURPOSE OF AN
ACTION TAKEN UNDER THIS CHAPTER, AND THE APPROPRIATENESS OF THAT
ACTION TO SERVE THE PUBLIC PURPOSE, IS CONCLUSIVE IN A PROCEEDING
INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND, OR SECURITY FOR
A BOND, ISSUED UNDER THIS TITLE.

SECTION 299.12. DEDICATION OF REVENUES.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR CHARTER, THE BOARD
OF COUNTY COMMISSIONERS MAY DEDICATE ANY REVENUES OF THE CHARLES
COUNTY GOVERNMENT FOR REPAYMENT OF BONDS AND TO SUPPORT THE
OPERATIONS OR RESILIENCE INFRASTRUCTURE PROJECTS OF THE RESILIENCE
AUTHORITY.

SECTION 299.13. JOINT RESOLUTION AUTHORITY.

IF MULTIPLE COUNTIES OR MUNICIPALITIES ESTABLISH A RESILIENCE
AUTHORITY:

(1) EACH SHALL BE CONSIDERED AN INCORPORATING LOCAL GOVERNMENT;

AND
(2) THE COUNTIES OR MUNICIPALITIES SHALL FILE JOINTLY ARTICLES OF INCORPORATION OR ARTICLES OF AMENDMENT IN ACCORDANCE WITH § 22–102 OF THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

SECTION 299.14. CONSTRUCTION OF CHAPTER.

NOTHING IN THIS CHAPTER MAY BE CONSTRUED TO:

(1) PROHIBIT THE CHARLES COUNTY GOVERNMENT FROM JOINING WITH MULTIPLE COUNTIES OR MUNICIPALITIES AND ESTABLISHING THROUGH JOINT ACTION, A RESILIENCE AUTHORITY IN ACCORDANCE WITH THIS CHAPTER; OR

(2) AUTHORIZE THE RESILIENCE AUTHORITY TO LEVY A TAX.

SECTION 299.15. REPORTS.

(A) ON JANUARY 1 OF EACH YEAR, IN A FORMAT DESIGNATED BY THE BOARD OF COUNTY COMMISSIONERS, THE RESILIENCE AUTHORITY SHALL, REPORT TO THE BOARD OF COMMISSIONERS ON THE ACTIVITIES OF THE RESILIENCE AUTHORITY.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE THE JANUARY 1 AFTER THE RESILIENCE AUTHORITY IS ESTABLISHED BY THE CHARLES COUNTY GOVERNMENT IN ACCORDANCE WITH THIS CHAPTER, AND ON OR BEFORE JANUARY 1 OF EACH YEAR THEREAFTER, THE RESILIENCE AUTHORITY SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE TO:

(I) THE SENATE BUDGE AND TAXATION COMMITTEE AND THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEES; AND

(II) THE HOUSE APPROPRIATIONS COMMITTEE AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.
(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
SHALL INCLUDE, AT A MINIMUM:

(I) A COPY OF THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS
SECTION;

(II) A DESCRIPTION OF THE RESILIENCE INFRASTRUCTURE PROJECTS
FUNDED BY THE RESILIENCE AUTHORITY; AND

(III) THE SOURCES OF REVENUE FOR THE RESILIENCE INFRASTRUCTURE
PROJECTS UNDERTAKEN BY THE RESILIENCE AUTHORITY.

SECTION 2. BE IT FURTHER ENACTED that this bill shall become effective forty-five (45)
calendar days after it becomes law.

Adopted this 8th day of December, 2020.

COUNTY COMMISSIONERS
CHARLES COUNTY, MARYLAND

Reuben B. Collins, II Esq., President
Bobby Rucci, Vice President
Amanda Stewart
Gilbert O. Bowling, III
Thomasina O. Coates, M.S.

ATTEST:
Carol DeSoto, Clerk to the Commissioners

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