

COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND

BILL 22-11

BY: Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom and Purnell
INTRODUCED: August 2, 2022

A BILL ENTITLED

AN ACT

TO AUTHORIZE AND EMPOWER COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND TO BORROW ON ITS FULL FAITH AND CREDIT, AND TO ISSUE AND SELL (1) ITS GENERAL OBLIGATION BONDS AND ITS BOND ANTICIPATION NOTES THEREFOR, AT ONE TIME OR FROM TIME TO TIME WITHIN FOUR YEARS FROM THE DATE THIS BILL BECOMES EFFECTIVE, EACH IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$10,955,670, TO PROVIDE FINANCING FOR A PORTION OF THE COST OF ENGINEERING, DESIGNING, CONSTRUCTING AND EQUIPPING OF PHASE 2 IMPROVEMENTS TO THE WORCESTER COUNTY JAIL, INCLUDING PAYMENT OF RELATED COSTS AND COSTS OF ISSUANCE, AND (2) ITS GENERAL OBLIGATION REFUNDING BONDS, AT ONE TIME OR FROM TIME TO TIME, IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$14,245,000, TO PROVIDE FINANCING FOR THE COST OF REFUNDING IN WHOLE OR IN PART ANY OF THE BONDS ISSUED PURSUANT TO THIS LOCAL LAW, INCLUDING PAYMENT OF RELATED COSTS AND COSTS OF ISSUANCE; PROVIDING THAT PROCEEDS OF SUCH BONDS OR BOND ANTICIPATION NOTES MAY BE APPLIED TO OTHER COSTS OF SUCH PROJECT AS DESCRIBED HEREIN; AND RECOGNIZING THAT BILL 22-6 MAY NOT HAVE BECOME EFFECTIVE.

For the purpose of authorizing the issuance and sale by County Commissioners of Worcester County, Maryland of (1) its general obligation bonds and its bond anticipation notes to finance a portion of the cost of engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail, and (2) its general obligation refunding bonds to finance the cost of refunding in whole or in part any of the bonds issued pursuant to this Local Law.

Section 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, that Appendix QQ to the Code of Public Local Laws of Worcester County, Maryland be created to read as follows:

APPENDIX "QQ"

BOND AUTHORIZATION FOR FINANCING A PORTION OF THE COST OF
ENGINEERING, DESIGNING, CONSTRUCTING AND EQUIPPING OF PHASE 2
IMPROVEMENTS TO THE WORCESTER COUNTY JAIL, AND BOND AUTHORIZATION FOR
REFUNDING BONDS

- § 1. **Financing a portion of the cost of engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail, and financing the cost of refunding in whole or in part any of the bonds issued for such purpose.**

(a) Recitals

(1) Pursuant to Sections 19-501 to 19-510, inclusive, of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Act"), County Commissioners of Worcester County, Maryland (the "County") may borrow money for any public purpose and may evidence the borrowing by the issuance and sale of its general obligation bonds.

(2) By and through Resolution No. 21-26, adopted by the Board of County Commissioners of Worcester County (the "Board") on December 7, 2021, the County has approved and adopted the Worcester County 5 Year Capital Improvement Plan - FY 2023 to FY 2027 which includes engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail.

(3) The Board, based upon the findings and determinations and subject to the conditions set forth below, has determined to borrow money in an aggregate principal amount of not more than \$10,955,670 and to evidence such borrowing by the issuance, sale and delivery of its general obligation bonds (the "Bonds") pursuant to the provisions of the Act, and to apply the proceeds of the Bonds to finance costs of engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail, including (without limitation) payment of related costs and the costs of issuance of the Bonds, all subject to the terms and conditions of this Local Law.

(4) Pursuant to Section 19-207 of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Refunding Act"), the County may borrow money to refund its outstanding bonds. Section 19-207(f)(1) of the Refunding Act provides that the total principal amount of the refunding bonds may exceed the total principal amount of the bonds that are being refunded. Section 19-207(g) of the Refunding Act provides that a governmental entity shall issue refunding bonds in accordance with the procedures that applied to issuance of the bonds that are being refunded; provided that, if, at a public meeting, the governmental entity determines that it would be in the public interest, the governmental entity may sell bonds issued under the Refunding Act at a private sale, without soliciting bids.

(5) The Board, based upon the findings and determinations and subject to the conditions set forth below, has determined to authorize the County to borrow money in an aggregate principal amount of not more than \$14,245,000 and to evidence such borrowing by the issuance, sale and delivery of its general obligation refunding bonds (the "Refunding Bonds") pursuant to the provisions of the Act and the Refunding Act, and to apply the proceeds of the Refunding Bonds to finance the cost of refunding in whole or in part the then-outstanding Bonds, including payment of related costs and costs of issuance of the Refunding Bonds, all subject to the terms and conditions of this Local Law.

(6) References in this Local Law to "finance" shall be construed to mean "finance, refinance and/or reimburse," as applicable, and references in this Local Law to "financing" shall be construed to mean "financing, refinancing and/or reimbursing," as applicable.

(7) References in this Local Law to “related costs” shall be construed to include capitalized interest and other costs of Phase 2 improvements to the Worcester County Jail.

(8) Bill 22-6, passed by the Board on April 19, 2022, authorized the issuance of general obligation debt to finance, reimburse or refinance costs of Phase 2 improvements to the Worcester County Jail may not have become effective in accordance with applicable law. Accordingly, the Board desires to authorize the issuance of general obligation debt for such project by this Local Law. Any general obligation debt for such project shall not be issued under authority of such Bill 22-6.

(b) The Board, acting pursuant to the Act and the Refunding Act, as applicable, hereby determines and declares that:

(1) There is a public need for engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail.

(2) The estimated cost for engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail, including activities not funded from proceeds of the Bonds, is approximately \$11,955,670.

(3) The funds proposed to be borrowed for engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail can be provided at the lowest annual interest cost and costs of issuance by the issuance of general obligation bonds by the County.

(4) Use of the proceeds of the Bonds by the County to finance a portion of the cost of engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail is a proper public purpose which may be financed by the issuance of the Bonds pursuant to the Act.

(5) Between the date of issuance of the first series of the Bonds and the date of final maturity of any series of the Bonds, the County may have an opportunity or a need to refund in whole or in part the then-outstanding Bonds and to thereby achieve one or more purposes of the Refunding Act. The funds authorized to be borrowed for the purpose of refunding in whole or in part the then-outstanding Bonds can be provided at the lowest annual interest cost and costs of issuance by the issuance of general obligation refunding bonds by the County.

(6) Use of the proceeds of the Refunding Bonds by the County to finance the cost of refunding in whole or in part the then-outstanding Bonds is a proper public purpose that may be financed by the issuance of the Refunding Bonds pursuant to the Act and the Refunding Act.

(c) Pursuant to the Act, the County is hereby authorized to borrow upon its full faith and credit an aggregate principal amount not to exceed \$10,955,670 and to evidence such borrowing by issuing, selling and delivering its Bonds, at any time or from time to time and in one or more series, in an aggregate principal amount not to exceed \$10,955,670, subject to the provisions and conditions of this Local Law. No series of the Bonds authorized by this Local Law shall be issued more than four years after the date this Local Law becomes effective.

- (d) The proceeds from the sale of the Bonds shall be applied for the public purpose of financing a portion of the cost of engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail as identified in the Worcester County 5 Year Capital Improvement Plan - FY 2023 to FY 2027 by and through Resolution No. 21-26, adopted by the Board on December 7, 2021, including payment of related costs and costs of the issuance of the Bonds. Nothing in this Local Law shall be construed as prohibiting the County from applying funds other than the proceeds of the Bonds to the purposes described in the preceding sentence. In addition, it is the intention of the Board that, without notice to or the consent of the holders of the Bonds, and without needing to amend this Local Law, proceeds of the Bonds may be applied to other costs of Phase 2 improvements to the Worcester County Jail not specifically mentioned in this Local Law as are authorized through applicable County budgetary procedures or applicable law. Furthermore, the County expressly reserves the right to amend this Local Law without notice to or the consent of the holders of the Bonds in order to authorize use of the proceeds of the Bonds, including any excess proceeds after application for the purposes described in this Paragraph, to such other public purpose or purposes as the County may approve by enactment of an amendment to this Local Law in accordance with, and pursuant to, the Act.
- (e) As permitted by Sections 19-211 to 19-223, inclusive, of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended, the provisions set forth in this Local Law for the issuance and sale of the Bonds are intended and shall be deemed to include provisions for the issuance and sale of bond anticipation notes in one or more series from time to time in an aggregate principal amount not exceeding \$10,955,670 without the adoption of any other Public Local Law or other action by the legislative body of the County. Accordingly, the words “bonds” and “Bonds”, as used in this Local Law, shall include such bond anticipation notes, unless the context clearly requires a contrary meaning. The County will agree to pay any bond anticipation notes issued pursuant to this Local Law and the interest and premium, if any, thereon from the proceeds of the Bonds in anticipation of the sale of which such notes are issued, and the County will agree to issue such Bonds when, and as soon as, the reason for deferring the issuance of the Bonds no longer exists.
- (f) Pursuant to the Act and the Refunding Act, the County is hereby authorized to borrow upon its full faith and credit an aggregate principal amount not to exceed \$14,245,000 and to evidence such borrowing by issuing, selling and delivering its Refunding Bonds, at any time or from time to time and in one or more series, in an aggregate principal amount not to exceed \$14,245,000, subject to the provisions and conditions of this Local Law.
- (g) The proceeds from the sale of any Refunding Bonds shall be applied for the public purpose of financing the cost of refunding in whole or in part the then-outstanding Bonds, including payment of related costs and costs of issuance of the Refunding Bonds. All references in this Local Law to the use of proceeds of the Refunding Bonds to refund in whole or in part the then-outstanding Bonds shall be construed to allow such proceeds to be applied to (i) pay all or a portion of the principal of the refunded Bonds to their respective dates of maturity or prior redemption, (ii) pay all or a portion of accrued interest on the refunded Bonds to their respective dates of maturity or redemption, (iii) pay funded interest on the Refunding Bonds, and/or (iv) pay all or a portion of related costs and costs of issuance of the Refunding Bonds. All references in this Local Law to the use of proceeds of the Refunding Bonds to refund in whole or in part the then-outstanding Bonds shall not be construed to refer to refunding any bond anticipation notes referenced in Paragraph (d) above. Nothing in this Local Law shall be construed as prohibiting the County from applying funds other than the proceeds of the Refunding Bonds to the purposes described in the preceding sentence. The words “bonds” and “Bonds” as used in this Local Law shall include the Refunding Bonds, unless the context clearly requires a contrary meaning; provided that, the limitation provided for in Paragraph (c) above as to the latest date by which any Bonds shall be

issued shall not apply to the issuance of any Refunding Bonds, which may be issued at any time as long as any of the Bonds are then-outstanding.

- (h) In each and every fiscal year that any of the Bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all assessable real and tangible personal property within the geographical boundaries of the County, in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on all of the Bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any deficiency; provided, however, that the County may apply to the payment of the principal of and interest on any Bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source, subject to any applicable limitations of federal, state or local law.
- (i) Prior to the issuance and sale of any of the Bonds, the County shall adopt one or more resolutions in accordance with Section 19-504 of the Act, which resolution shall describe in part, the following: (i) the amount of Bonds which shall be issued and the amount of the proceeds of such Bonds allocated to each project specified in such resolution or resolutions, or, with respect to any Refunding Bonds, the Bonds authorized to be refunded in whole or in part from proceeds of such Refunding Bonds, (ii) the statement of the public purpose or purposes for which the proceeds of the Bonds are to be expended, and, with respect to any Refunding Bonds, the purpose or purposes of the Refunding Act to be achieved by the issuance of such Refunding Bonds, (iii) the form of the Bonds, which shall include the place and time of payment thereof, the rate or rates of interest payable thereon, or space for the insertion of the rate or rates of interest upon the determination thereof, the titles of the officials whose signatures shall be affixed to or imprinted on the Bonds, the authority for the issuance thereof, and the taxes and any special revenues from which the principal of and interest on the Bonds will be payable, (iv) the designation, form, tenor, denomination or denominations and maturities (not exceeding forty years), and optional and mandatory sinking fund redemption provisions, if any, of the Bonds, (v) the method of sale of such Bonds, (vi) provisions for the notice soliciting bids for the purchase of the Bonds, if the Bonds are sold at public sale, (vii) specific provisions for the appropriation and disposal of the proceeds of the sale of the Bonds and specific provisions for the payment of the principal and interest thereon, which provisions shall specify the source or sources of payment and shall constitute a covenant binding the County to provide the funds from the source or sources as and when principal and interest are due and payable, (viii) if any of the proceeds of the Bonds are to be loaned by the County, the terms of such loan and of any loan agreement executed in connection with such loan, and (ix) any and all other matters deemed necessary in connection with the proposed borrowing, the issuance, sale and delivery of the Bonds and the appropriation of the proceeds thereof, including (without limitation), (A) whether any premium paid to the County in connection with the sale of the Bonds shall be applied to the costs for which the Bonds are authorized to be issued, to the payment of debt service on the Bonds, or for some other purpose authorized by applicable law, and (B) whether interest or investment earnings on proceeds of the Bonds shall be applied to the purposes for which such Bonds are issued, to the payment of debt service on the Bonds, or for some other purpose authorized by applicable law, unless any such determinations must be made by Public Local Law in accordance with applicable law. Additionally, such resolution or resolutions may provide that the issuance of Bonds authorized pursuant to this Local Law may be consolidated with one or more other issues authorized by the County, all as provided in Section 19-101 of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended, and any successor provision of law, or as authorized by any other applicable law.

- (j) The Bonds evidencing the borrowing authorized by this Local Law shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest and premium (if any) on the Bonds as and when they become due and payable.
- (k) The Bonds may be sold in one or more series, and the Bonds of any series shall be sold either (a) at private (negotiated) sale and at or above par, or (b) at public sale, by competitive bid, at or above par, as determined by the Board to be in the best interest of the County; in either or both of which events, the Bonds of such series shall be sold in such manner and upon such terms as the Board deems to be in the best interests of the County.
- (l) The Bonds and their issuance and sale shall be exempt from the provisions of Sections 19-205 and 19-206 of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended.
- (m) The County may enter into agreements with agents, banks, fiduciaries, insurers or others for the purpose of enhancing the marketability of, and security for, the Bonds and for the purpose of securing any tender option that may be granted to holders of the Bonds. With respect to the issuance of any Refunding Bonds, the County may enter into agreements in order to provide for the escrowing of proceeds of such Refunding Bonds.
- (n) In case any officer whose signature appears on any Bond ceases to be such officer before delivery, the signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery.
- (o) Upon delivery of any Bonds to the purchaser or purchasers, payment shall be made to the Finance Officer of the County or such other official of the County as may be designated to receive payment in a resolution passed by the Board prior to delivery of the Bonds. Proceeds of any Refunding Bonds may be paid to such escrow agent as may be designated to receive payment in a resolution passed by the Board prior to delivery of such Refunding Bonds.
- (p) The County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The County may, by appropriate resolution, provide for the replacement of any Bonds issued under this Act which may have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.
- (q) The authority to borrow money and to issue bonds conferred on the County by this Local Law shall be deemed to provide additional, alternative and supplemental authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all previously enacted laws authorizing the County to borrow money are hereby continued to the extent that the power contained in them is continuing or has not been exercised, unless any law is expressly repealed by this Local Law, and the validity of any bonds issued under previously enacted laws is hereby ratified, confirmed and approved. This Local Law, being necessary for the welfare of the inhabitants of Worcester County, shall be liberally construed to effect its purposes. All Public Local Laws previously enacted, and parts of Public Local Laws previously enacted, which are inconsistent with the provisions of this Local Law, are hereby repealed to the extent of any inconsistency.

- (r) The County shall seek funds for engineering, designing, constructing and equipping of Phase 2 improvements to the Worcester County Jail or repayment of the Bonds through such grant sources as the Board may, from time to time, deem desirable and appropriate.
- (s) The provisions of this Local Law are severable, and if any provision, sentence, clause, section or part hereof is held to be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, and if the person or circumstances to which this Local Law or any part hereof are inapplicable had been specifically exempted therefrom.

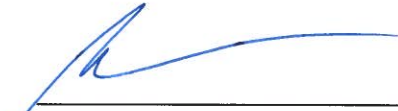
Section 2. BE IT FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, that this Bill shall take effect forty-five (45) days from the date of its passage.

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PASSED this 6th day of September, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
WORCESTER COUNTY, MARYLAND



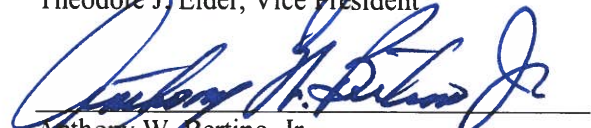
Weston S. Young
Chief Administrative Officer



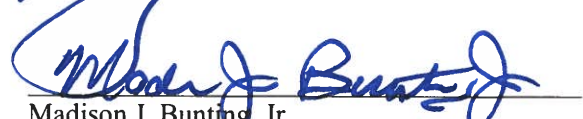
Joseph M. Mitrecic, President



Theodore J. Elder, Vice President



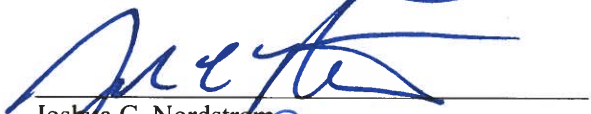
Anthony W. Bertino, Jr.



Madison J. Bunting, Jr.



James C. Church



Joshua C. Nordstrom



Diana Purnell