

SENATE BILL 300

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CF HB 124

By: **Senators Young and Brinkley**

Introduced and read first time: January 27, 2012

Assigned to: Budget and Taxation

A BILL ENTITLED

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 \$100,000,000 in
5 order to finance the cost of certain public facilities in Frederick County, as
6 herein defined, and to effect such borrowing by the issuance and sale at public
7 or private sale of its general obligation bonds; empowering the County to fix and
8 determine, by resolution, the form, tenor, interest rate or rates or method of
9 determining the same, terms, conditions, maturities, and all other details
10 incident to the issuance and sale of the bonds; empowering the County to issue
11 refunding bonds for the purchase or redemption of bonds in advance of
12 maturity; empowering and directing the County to levy, impose, and collect,
13 annually, ad valorem taxes in rate and amount sufficient to provide funds for
14 the payment of the maturing principal of and interest on the bonds; exempting
15 the bonds and refunding bonds and the interest thereon and any income derived
16 therefrom from all State, county, municipal, and other taxation in the State of
17 Maryland; providing that nothing in this Act shall prevent the County from
18 authorizing the issuance and sale of bonds the interest on which is not
19 excludable from gross income for federal income tax purposes; providing that
20 such borrowing may be undertaken by Frederick County in the form of
21 installment purchase obligations executed and delivered by Frederick County
22 for the purpose of acquiring agricultural land and woodland preservation
23 easements; and generally relating to the issuance and sale of the bonds by
24 Frederick County.

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That, as used herein, the term “County” means the body politic and
27 corporate of the State of Maryland known as the County Commissioners of Frederick
28 County, and the term “public facilities” means the cost of construction and
29 reconstruction of capital projects, including but not limited to landfill projects, public
30 schools, roads, bridges, flood control projects, solid waste facilities, water and leachate

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 treatment facilities, libraries, easements or similar or related rights in land that
2 restrict the use of agricultural land or woodland to maintain the character of the land
3 as agricultural land or woodland, and communication systems, including the
4 development of property, the acquisition and installation of equipment and
5 furnishings, together with any related architectural, financial, legal, planning, or
6 engineering services.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby
8 authorized to finance any part or all of the costs of the public facilities described in
9 Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at
10 one time or from time to time, in an amount not exceeding, in the aggregate,
11 \$100,000,000 and to evidence such borrowing by the issuance and sale upon its full
12 faith and credit of general obligation bonds, which may be issued at one time or from
13 time to time, in one or more groups or series, as the County may determine.

14 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued
15 pursuant to a resolution of the County, which shall describe generally the public
16 facilities for which the proceeds of the bond sale are intended and the amount needed
17 for those purposes. The County shall have and is hereby granted full and complete
18 authority and discretion in the resolution to fix and determine with respect to the
19 bonds of any issue: the designation, date of issue, denomination or denominations,
20 form or forms, and tenor of the bonds which, without limitation, may be issued in
21 registered form within the meaning of Section 30 of Article 31 of the Annotated Code
22 of Maryland, as amended; the rate or rates of interest payable thereon, or the method
23 of determining the same, which may include a variable rate; the date or dates and
24 amount or amounts of maturity, which need not be in equal par amounts or in
25 consecutive annual installments, provided only that no bond of any issue shall mature
26 later than 30 years from the date of its issue; the manner of selling the bonds, which
27 may be at either public or private sale, for such price or prices as may be determined
28 to be for the best interests of Frederick County; the manner of executing and sealing
29 the bonds, which may be by facsimile; the terms or conditions, if any, under which
30 bonds may or shall be redeemed prior to their stated maturity; the place or places of
31 payment of the principal of and the interest on the bonds, which may be at any bank
32 or trust company within or without the State of Maryland; covenants relating to
33 compliance with applicable requirements of federal income tax law, including
34 covenants regarding the payment of rebate or penalties in lieu of rebate; covenants
35 relating to compliance with applicable requirements of federal or state securities laws;
36 and generally all matters incident to the terms, conditions, issuance, sale, and delivery
37 thereof.

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

42 In case any officer whose signature appears on any bond ceases to be such
43 officer before the delivery thereof, such signature shall nevertheless be valid and

1 sufficient for all purposes as if he had remained in office until such delivery. The bonds
2 and the issuance and sale thereof shall be exempt from the provisions of Sections 2C,
3 9, 10, and 11 of Article 31 of the Annotated Code of Maryland.

4 If the County determines in the resolution to offer any of the bonds by
5 solicitation of competitive bids at public sale, the resolution shall fix the terms and
6 conditions of the public sale and shall adopt a form of notice of sale, which shall
7 outline the terms and conditions, and a form of advertisement, which may be
8 published in one or more daily or weekly newspapers having a general circulation in
9 the County and which may also be published in one or more journals having a
10 circulation primarily among banks and investment bankers. Upon delivery of any
11 bonds to the purchaser or purchasers, payment therefor shall be made to the
12 Treasurer of Frederick County or such other official of Frederick County as may be
13 designated to receive such payment in a resolution passed by the County
14 Commissioners of Frederick County before delivery. For purposes of issuance and sale,
15 bonds authorized hereunder may be consolidated into a single issue with any other
16 bonds authorized to be issued by the County.

17 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the
18 sale of bonds shall be used and applied exclusively and solely for the public facilities
19 for which the bonds are sold. If the net proceeds of the sale of any issue of bonds
20 exceeds the amount needed to finance the public facilities described in the resolution,
21 the excess funds so borrowed and not expended shall be applied to the payment of the
22 next principal maturity of the bonds or to the redemption of any part of the bonds
23 which have been made redeemable or to the purchase and cancellation of bonds,
24 unless the County shall adopt a resolution allocating the excess funds to the costs of
25 other public facilities.

26 SECTION 5. 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
42 in this Act and, to the extent of any such funds received or receivable in any fiscal
43 year, the taxes that might otherwise be levied under this Act, may be reduced or need
44 not be levied.

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

21 SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to
22 the preparation of definitive bonds, issue interim certificates or temporary bonds, with
23 or without coupons, exchangeable for definitive bonds when such bonds have been
24 executed and are available for such delivery, provided, however, that any such interim
25 certificates or temporary bonds shall be issued in all respects subject to the
26 restrictions and requirements set forth in this Act. The County may, by appropriate
27 resolution, provide for the replacement of any bonds issued hereunder which shall
28 have become mutilated or lost or destroyed upon such conditions and after receiving
29 such indemnity as the County may require.

30 SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations
31 issued pursuant to the authority of this Act, their transfer, the interest payable
32 thereon, and any income derived therefrom in the hands of the holders thereof from
33 time to time (including any profit made in the sale thereof) shall be and are hereby
34 declared to be at all times exempt from State, county, municipal, or other taxation of
35 every kind and nature whatsoever within the State of Maryland. Nothing in this Act
36 shall prevent the County from authorizing the issuance and sale of bonds the interest
37 on which is not excludable from gross income for federal income tax purposes.

38 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow
39 money and issue bonds conferred on the County by this Act shall be deemed to provide
40 additional, alternative, and supplemental authority for borrowing money and shall be
41 regarded as supplemental and additional to powers conferred upon the County by
42 other laws and shall not be regarded as in derogation of any power now existing; and
43 all Acts of the General Assembly of Maryland heretofore passed authorizing the

1 County to borrow money are hereby continued to the extent that the powers contained
2 in such Acts have not been exercised, and nothing contained in this Act may be
3 construed to impair, in any way, the validity of any bonds that may have been issued
4 by the County under the authority of any said Acts, and the validity of the bonds is
5 hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of
6 the inhabitants of Frederick County, shall be liberally construed to effect the purposes
7 hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are
8 hereby repealed to the extent of such inconsistency.

9 SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing
10 authorized by this Act may also be undertaken by the County in the form of
11 installment purchase obligations executed and delivered by the County for the purpose
12 of acquiring easements or similar or related rights in land that restrict the use of
13 agricultural land or woodland to maintain the character of the land as agricultural
14 land or woodland. The form of installment purchase obligations, the manner of
15 accomplishing the acquisition of easements, which may be by the direct exchange of
16 installment purchase obligations for easement, and all matters incident to the
17 execution and delivery of the installment purchase obligations and acquisition of the
18 easements by the County shall be determined in the resolution. Except where the
19 provisions of this Act would be inapplicable to installment purchase obligations, the
20 term "bonds" used in this Act shall include installment purchase obligations and
21 matters pertaining to the bonds under this Act, such as the security for the payment of
22 the bonds, the exemption of the bonds from State, county, municipal, or other taxation,
23 and authorization to issue refunding bonds and the limitation on the aggregate
24 principal amount of bonds authorized for issuance, shall be applicable to installment
25 purchase obligations.

26 SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect June 1, 2012.