

SENATE BILL 508

B3

3lr2060
CF HB 546

By: **Senators Shank, Edwards, and Young**

Introduced and read first time: January 31, 2013

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: March 12, 2013

CHAPTER _____

1 AN ACT concerning

2 **Washington County – Public Facilities Bonds**

3 FOR the purpose of authorizing and empowering the County Commissioners of
4 Washington County, from time to time, to borrow not more than \$60,000,000 in
5 order to finance the costs of the construction, improvement, or development of
6 certain public facilities in Washington County, as herein defined, and to effect
7 such borrowing by the issuance and sale at public or private sale of its general
8 obligation bonds in like par amount; empowering the County to fix and
9 determine, by resolution, the form, tenor, interest rate or rates or method of
10 determining the same, terms, conditions, maturities, and all other details
11 incident to the issuance and sale of the bonds; empowering the County to issue
12 refunding bonds for the purchase or redemption of bonds in advance of
13 maturity; empowering and directing the County to levy, impose, and collect,
14 annually, ad valorem taxes in rate and amount sufficient to provide funds for
15 the payment of the maturing principal of and interest on the bonds; exempting
16 the bonds and refunding bonds, and the interest thereon and any income
17 derived therefrom, from all State, county, municipal, and other taxation in the
18 State of Maryland; providing that nothing in this Act shall prevent the County
19 from authorizing the issuance and sale of bonds the interest on which is not
20 excludable from gross income for federal income tax purposes; providing that
21 such borrowing may be undertaken by the County in the form of installment
22 purchase obligations executed and delivered by the County for the purpose of
23 acquiring agricultural land, woodland preservation easements, and transferable
24 development rights; and relating generally to the issuance and sale of such
25 bonds.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That, as used herein, the term "County" means the body politic and
3 corporate of the State of Maryland known as the County Commissioners of
4 Washington County, and the term "construction, improvement, or development of
5 public facilities" means the acquisition, alteration, construction, reconstruction,
6 enlargement, equipping, expansion, extension, improvement, rehabilitation,
7 renovation, upgrading, and repair of public buildings and facilities and public works
8 projects, including, but not limited to, the following, together with related
9 architectural, financial, legal, planning, or engineering services:

10 (a) Public school buildings, a school for the arts, administrative facilities,
11 sites, and grounds;

12 (b) Community College buildings, sites, and grounds;

13 (c) Buildings and facilities for public safety, health and social services,
14 libraries, County administration purposes, County airport purposes, refuse collection,
15 recycling or disposal by whatever means, and park and recreation purposes;

16 (d) Acquisition of land or interests in land and any improvement thereon;
17 and

18 (e) Easements or similar or related rights in land, including transferable
19 development rights, that restrict the use of agricultural land or woodland to maintain
20 the character of the land as agricultural land or woodland.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby
22 authorized to finance any part or all of the costs of the facilities described in Section 1
23 of this Act, and to borrow money and incur indebtedness for that purpose, at one time
24 or from time to time, in an amount not exceeding, in the aggregate, \$60,000,000 and to
25 evidence such borrowing by the issuance and sale upon its full faith and credit of
26 general obligation bonds in like par amount, which may be issued at one time or from
27 time to time, in one or more groups or series, as the County may determine.

28 SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued
29 in accordance with a resolution of the County, which shall describe generally the
30 construction, improvement, or development of public facilities for which the proceeds
31 of the bond sale are intended and the amount needed for those purposes. The County
32 shall have and is hereby granted full and complete authority and discretion in the
33 resolution to fix and determine with respect to the bonds of any issue: the designation,
34 date of issue, denomination or denominations, form or forms, and tenor of the bonds
35 which, without limitation, may be issued in registered form within the meaning of
36 Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or
37 rates of interest payable thereon, or the method of determining the same, which may
38 include a variable rate; the date or dates and amount or amounts of maturity, which
39 need not be in equal par amounts or in consecutive annual installments, provided only

1 that no bond of any issue shall mature later than 30 years from the date of its issue;
2 the manner of selling the bonds, which may be at either public or private sale, for such
3 price or prices as may be determined to be for the best interests of the County; the
4 manner of executing and sealing the bonds, which may be by facsimile; the terms and
5 conditions, if any, under which bonds may be tendered for payment or purchase prior
6 to their stated maturity; the terms or conditions, if any, under which bonds may or
7 shall be redeemed prior to their stated maturity; the place or places of payment of the
8 principal of and the interest on the bonds, which may be at any bank or trust company
9 within or without the State of Maryland; covenants relating to compliance with
10 applicable requirements of federal income tax law, including (without limitation)
11 covenants regarding the payment of rebate or penalties in lieu of rebate; covenants
12 relating to compliance with applicable requirements of federal or state securities laws;
13 and generally all matters incident to the terms, conditions, issuance, sale, and delivery
14 thereof.

15 The bonds may be made redeemable before maturity, at the option of the
16 County, at such price or prices and under such terms and conditions as may be fixed
17 by the County prior to the issuance of the bonds, either in the resolution or in
18 subsequent resolutions. In case any officer whose signature appears on any bond
19 ceases to be such officer before the delivery thereof, such signature shall nevertheless
20 be valid and sufficient for all purposes as if he had remained in office until such
21 delivery. The bonds and the issuance and sale thereof shall be exempt from the
22 provisions of Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of
23 Maryland. The County may enter into agreements with agents, banks, fiduciaries,
24 insurers, or others for the purpose of enhancing the marketability of any security for
25 the bonds and for the purpose of securing any tender option that may be granted to
26 holders of the bonds, all as may be determined and presented in the aforesaid
27 resolution, which may (but need not) state as security for the performance by the
28 County of any monetary obligations under such agreements the same security given by
29 the County to bondholders for the performance by the County of its monetary
30 obligations under the bonds. If the County determines in the resolution to offer any of
31 the bonds by solicitation of competitive bids at public sale, the resolution shall fix the
32 terms and conditions of the public sale and shall adopt a form of notice of sale, which
33 shall outline the terms and conditions, including the manner of receipt of bids, and a
34 form of advertisement. At least one publication of the advertisement shall be made not
35 less than 10 days before the sale of the bonds.

36 Upon delivery of any bonds to the purchaser or purchasers, payment therefor
37 shall be made to the Treasurer of Washington County or such other official of the
38 County as may be designated to receive such payment in a resolution passed by the
39 County Commissioners of Washington County before such delivery. For purposes of
40 issuance and sale, bonds, authorized hereunder may be consolidated into a single issue
41 with any other bonds authorized to be issued by the County.

42 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the
43 sale of bonds shall be used and applied exclusively and solely for the acquisition,
44 construction, improvement, or development of public facilities for which the bonds are

1 sold. If the amounts borrowed shall prove inadequate to finance the projects described
2 in the resolution, the County may issue additional bonds within the limitations hereof
3 for the purpose of evidencing the borrowing of additional funds for such financing,
4 provided the resolution authorizing the sale of additional bonds shall so recite, but if
5 the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance
6 the projects described in the resolution, the excess funds so borrowed and not
7 expended shall be applied to the payment of the next principal maturity of the bonds
8 or to the redemption of any part of the bonds which have been made redeemable or to
9 the purchase and cancellation of bonds, unless the County shall adopt a resolution
10 allocating the excess funds to the acquisition, construction, improvement, or
11 development of other public facilities, as defined and within the limits set forth in this
12 Act.

13 SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby
14 authorized shall constitute, and they shall so recite, an irrevocable pledge of the full
15 faith and credit and unlimited taxing power of the County to the payment of the
16 maturing principal of and interest on the bonds as and when they become payable. In
17 each and every fiscal year that any of the bonds are outstanding, the County shall levy
18 or cause to be levied ad valorem taxes upon all the assessable property within the
19 corporate limits of Washington County in rate and amount sufficient to provide for or
20 assure the payment, when due, of the principal of and interest on all the bonds
21 maturing in each such fiscal year and, in the event the proceeds from the taxes so
22 levied in any such fiscal year shall prove inadequate for such payment, additional
23 taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The
24 County may apply to the payment of the principal of and interest on any bonds issued
25 hereunder any funds received by it from the State of Maryland, the United States of
26 America, any agency or instrumentality thereof, or from any other source, if such
27 funds are granted for the purpose of assisting the County in financing the acquisition,
28 construction, improvement, or development of the public facilities defined in this Act
29 and, to the extent of any such funds received or receivable in any fiscal year, the taxes
30 that are required to be levied may be reduced accordingly.

31 SECTION 6. AND BE IT FURTHER ENACTED, That the County is further
32 authorized and empowered, at any time and from time to time, to issue its bonds in
33 the manner hereinabove described for the purpose of refunding, by payment at
34 maturity or upon purchase or redemption, any bonds issued hereunder. The validity of
35 any such refunding bonds shall in no way be dependent upon or related to the validity
36 or invalidity of the obligations so refunded. The powers herein granted with respect to
37 the issuance of bonds shall be applicable to the issuance of refunding bonds. Such
38 refunding bonds may be issued by the County for the purpose of providing it with
39 funds to pay any of its outstanding bonds issued hereunder at maturity, for the
40 purpose of providing it with funds to purchase in the open market any of its
41 outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose
42 of providing it with funds for the redemption prior to maturity of any outstanding
43 bonds issued hereunder which are, by their terms, redeemable, for the purpose of
44 providing it with funds to pay interest on any outstanding bonds issued hereunder
45 prior to their payment at maturity of purchase or redemption in advance of maturity,

1 or for the purpose of providing it with funds to pay any redemption or purchase
2 premium in connection with the refunding of any of its outstanding bonds issued
3 hereunder. The proceeds of the sale of any such refunding bonds shall be segregated
4 and set apart by the County as a separate trust fund to be used solely for the purpose
5 of paying the purchase or redemption prices of the bonds to be refunded.

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

15 SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations
16 issued pursuant to the authority of this Act, their transfer, the interest payable
17 thereon, and any income derived therefrom in the hands of the holders thereof from
18 time to time (including any profit made in the sale thereof) shall be and are hereby
19 declared to be at all times exempt from State, county, municipal, or other taxation of
20 every kind and nature whatsoever within the State of Maryland.

21 Nothing in this Act shall prevent the County from authorizing the issuance and
22 sale of bonds the interest on which is not excludable from gross income for federal
23 income tax purposes.

24 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow
25 money and issue bonds conferred on the County by this Act shall be deemed to provide
26 an additional and alternative authority for borrowing money and shall be regarded as
27 supplemental and additional to powers conferred upon the County by other laws and
28 shall not be regarded as in derogation of any power now existing; and all Acts of the
29 General Assembly of Maryland heretofore passed authorizing the County to borrow
30 money are hereby continued to the extent that the powers contained in such Acts have
31 not been exercised, and nothing contained in this Act may be construed to impair, in
32 any way, the validity of any bonds that may have been issued by the County under the
33 authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed,
34 and approved. This Act, being necessary for the welfare of the inhabitants of
35 Washington County, shall be liberally construed to effect the purposes hereof. All Acts
36 and parts of Acts inconsistent with the provisions of this Act are hereby repealed to
37 the extent of such inconsistency.

38 SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing
39 authorized by this Act may also be undertaken by the County in the form of
40 installment purchase obligations executed and delivered by the County for the purpose
41 of acquiring easements or similar or related rights in land, including transferable
42 development rights, that restrict the use of agricultural land or woodland to maintain

1 the character of the land as agricultural land or woodland. The form of installment
2 purchase obligations, the manner of accomplishing the acquisition of easements, which
3 may be by the direct exchange of installment purchase obligations for easements or
4 transferable development rights, and all matters incident to the execution and
5 delivery of the installment purchase obligations and acquisition of the easements or
6 transferable development rights by the County shall be determined in the resolution.
7 Except where the provisions of this Act would be inapplicable to installment purchase
8 obligations, the term "bonds" used in this Act shall include installment purchase
9 obligations and matters pertaining to the bonds under this Act, such as the security
10 for the payment of the bonds, the exemption of the bonds from State, county,
11 municipal, or other taxation, and authorization to issue refunding bonds and the
12 limitation on the aggregate principal amount of bonds authorized for issuance, shall be
13 applicable to installment purchase obligations.

14 SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect June 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.