

SENATE BILL 736

B3

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CF HB 892

By: **Senator Waugh**

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **St. Mary's County – Public Facility Bonds**

3 FOR the purpose of authorizing and empowering the County Commissioners of St. Mary's
4 County, from time to time, to borrow not more than \$26,300,000 in order to finance
5 the construction, improvement, or development of certain public facilities in St.
6 Mary's County, as herein defined, and to effect such borrowing by the issuance and
7 sale at public or private sale of its general obligation bonds in like par amount;
8 empowering the County to fix and determine, by resolution, the form, tenor, interest
9 rate or rates or method of determining the same, terms, conditions, maturities, and
10 all other details incident to the issuance and sale of the bonds; empowering the
11 County to issue refunding bonds for the purchase or redemption of bonds in advance
12 of 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 the
14 payment of the maturing principal of and interest on the bonds; exempting the bonds
15 and refunding bonds and the interest thereon and any income derived therefrom
16 from all State, county, municipal, and other taxation in the State of Maryland;
17 providing that nothing in this Act shall prevent the County from authorizing the
18 issuance and sale of bonds the interest on which is not excludable from gross income
19 for federal income tax purposes; making this Act subject to a certain contingency;
20 and generally relating to the issuance and sale of such bonds.

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That, as used herein, the term "County" means the body politic and corporate of the State
23 of Maryland known as the County Commissioners of St. Mary's County, and the term
24 "construction, improvement, or development of public facilities" means the acquisition,
25 alteration, construction, reconstruction, enlargement, equipping, expansion, extension,
26 improvement, rehabilitation, renovation, upgrading, and repair of public buildings and
27 facilities and public works projects, including, but not limited to, public works projects such
28 as highways, roads, bridges and storm drains, public school buildings and facilities, boating
29 facilities, shore erosion and other marine property, landfills, and recycling facilities, public
30 operational buildings and facilities such as buildings and facilities for County

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



administrative use, capital improvements to the Wicomico Shores Taxing District, County athletic facilities, the community college, community swimming pools, public safety, health, and social services, libraries, commuter air service facilities, refuse disposal buildings and facilities, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$26,300,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 19–204 of the Local Government Article of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be in the best interests of St. Mary's County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall

1 nevertheless be valid and sufficient for all purposes as if he had remained in office until
2 such delivery. The bonds and the issuance and sale thereof shall be exempt from the
3 provisions of §§ 19–205 and 19–206 of the Local Government Article of the Annotated Code
4 of Maryland, as amended.

5 The County may enter into agreements with agents, banks, fiduciaries, insurers, or
6 others for the purpose of enhancing the marketability of any security for the bonds and for
7 the purpose of securing any tender option that may be granted to holders of the bonds, all
8 as may be determined and presented in the aforesaid resolution, which may (but need not)
9 state as security for the performance by the County of any monetary obligations under such
10 agreements the same security given by the County to bondholders for the performance by
11 the County of its monetary obligations under the bonds.

12 If the County determines in the resolution to offer any of the bonds by solicitation of
13 competitive bids at public sale, the resolution shall fix the terms and conditions of the public
14 sale and shall adopt a form of notice of sale, which shall outline the terms and conditions,
15 and a form of advertisement, which shall be published in one or more daily or weekly
16 newspapers having a general circulation in the County and which may also be published in
17 one or more journals having a circulation primarily among banks and investment bankers.
18 At least one publication of the advertisement shall be made not less than 10 days before
19 the sale of the bonds.

20 Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall
21 be made to the Treasurer of St. Mary's County or such other official of St. Mary's County
22 as may be designated to receive such payment in a resolution passed by the County before
23 such delivery.

24 SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale
25 of bonds shall be used and applied exclusively and solely for the acquisition, construction,
26 improvement, or development of public facilities for which the bonds are sold. If the
27 amounts borrowed shall prove inadequate to finance the projects described in the
28 resolution, the County may issue additional bonds with the limitations hereof for the
29 purpose of evidencing the borrowing of additional funds for such financing, provided the
30 resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of
31 the sale of any issue of bonds exceed the amount needed to finance the projects described
32 in the resolution, the excess funds so borrowed and not expended shall be applied to the
33 payment of the next principal maturity of the bonds or to the redemption of any part of the
34 bonds which have been made redeemable or to the purchase and cancellation of bonds,
35 unless the County shall adopt a resolution allocating the excess funds to the acquisition,
36 construction, improvement, or development of other public facilities, as defined and within
37 the limits set forth in this Act.

38 SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized
39 shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit
40 and unlimited taxing power of the County to the payment of the maturing principal of and
41 interest on the bonds as and when they become payable. In each and every fiscal year that
42 any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem

taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. 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 thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied under this Act may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That 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 such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

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

1 whatsoever within the State of Maryland. Nothing in this Act shall prevent the County
2 from authorizing the issuance and sale of bonds the interest on which is not excludable
3 from gross income for federal income tax purposes.

4 SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow
5 money and issue bonds conferred on the County by this Act shall be deemed to provide an
6 additional and alternative authority for borrowing money and shall be regarded as
7 supplemental and additional to powers conferred upon the County by other laws and shall
8 not be regarded as in derogation of any power now existing; and all Acts of the General
9 Assembly of Maryland heretofore passed authorizing the County to borrow money are
10 hereby continued to the extent that the powers contained in such Acts have not been
11 exercised, and nothing contained in this Act may be construed to impair, in any way, the
12 validity of any bonds that may have been issued by the County under the authority of any
13 said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This
14 Act, being necessary for the welfare of the inhabitants of St. Mary's County, shall be
15 liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent
16 with the provisions of this Act are hereby repealed to the extent of such inconsistency.

17 SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 contingent on the County Commissioners of St. Mary's County repealing the ordinance
19 imposing the sales and use tax on energy or fuel used or consumed in St. Mary's County
20 authorized under § 20-606 of the Local Government Article. If the County Commissioners
21 repeal the sales and use tax on or before June 1, 2022, the County Commissioners shall
22 deliver a copy of the ordinance to the Department of Legislative Services. If the County
23 Commissioners do not repeal the sales and use tax on or before June 1, 2022, this Act, with
24 no further action required by the General Assembly, shall be null and void and of no further
25 force and effect. The County Commissioners, within 5 days after repealing the sales and
26 use tax, shall forward a copy of the ordinance to the Department of Legislative Services, 90
27 State Circle, Annapolis, Maryland 21401.

28 SECTION 11. AND BE IT FURTHER ENACTED, That, subject to Section 10 of this
29 Act, this Act shall take effect June 1, 2017.