

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND  
LEGISLATIVE SESSION, 2010  
BILL NO. 2010-09

Introduced August 17, 2010

By: The President of the Council at the request of the County Executive

**AN ACT** to authorize and empower Wicomico County, Maryland to borrow on the faith and credit of Wicomico County, Maryland an aggregate amount not exceeding Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500) and to evidence such borrowing by the issue and sale from time to time of one or more series of general obligation bonds of the County, the proceeds thereof to be used by Wicomico County to finance, refinance or reimburse all or a portion of the costs of projects for the Department of Recreation & Parks, the Board of Education of Wicomico County and Wor-Wic Community College for the planning, design, acquisition, construction, improvement, installation, renovation, rehabilitation, repairing, furnishing and equipping of land, facilities, buildings and structures, together with other costs and financing costs related thereto; authorizing the County Council to pass one or more resolutions prior to issuing all or any part of the bonds in order to fix, prescribe and determine the details of the bonds and the issuance and sale thereof; authorizing the issuance from time to time of one or more series of general obligation refunding bonds in order to refund or advance refund any of the bonds issued pursuant to the authority of this Act, provided that the aggregate principal amount of each such issue of refunding bonds does not exceed one hundred thirty percent (130%) of the aggregate principal amount of bonds refunded thereby; providing that all such bonds shall be general obligations of the County to which the faith and credit of the County are pledged and authorizing annual appropriations to pay the principal of and interest on said bonds and the levying of taxes to meet said appropriations, subject to any lawful limitations on the County's taxing power set forth in the Charter, as that taxing power may relate to such bonds; exempting all such bonds from the provisions of Sections 10 and 11 of Article 31 of the Annotated Code of Maryland; authorizing the issuance from time to time of one or more series of general obligation bond anticipation notes in an aggregate principal amount not to exceed Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500) prior to and in anticipation of the sale of the bonds authorized hereby; providing for the disbursement of the proceeds of the bonds or bond anticipation notes authorized hereby; providing that the provisions of this Act shall be separable; and generally relating to the issuance and sale of such bonds or bond anticipation notes.

WHEREAS, Wicomico County, Maryland (the "County") is authorized pursuant to Section 5(P) of Article 25A of the Annotated Code of Maryland (West 2002, as replaced, supplemented or amended) to borrow money on the faith and credit of the County for any proper purpose; and

WHEREAS, the Capital Budget for Wicomico County, Maryland, adopted pursuant to Section 705 of the Wicomico County Charter effective June 15, 2010 as the same may be amended, provides for funds provided by the County through the issuance of its bonds for the projects described herein in the amount of Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500); and

WHEREAS, the County Council of Wicomico County, Maryland deems that the projects identified as being funded from bond proceeds are necessary to the welfare of Wicomico County, Maryland and that the financial resources of the County are ample and within the limitations as prescribed by the Charter of Wicomico County, Maryland to permit the borrowing of the sum required therefor; now, therefore:

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that to provide the funds required to enable the County to finance, refinance or reimburse the cost of a certain public improvement project approved in the Capital Budget of Wicomico County Council adopted pursuant to Section 705 of the Wicomico County Charter effective June 15, 2010 as the same may be amended, to provide the funds required to enable the Board of Education of Wicomico County to finance, refinance or reimburse the cost of a certain school project approved in the Capital Improvement Budget of the County Council adopted pursuant to Section 705 of the Wicomico County Charter effective June 15, 2010 as the same may be amended, and to provide the funds required to enable the Board of Trustees of Wor-Wic Community College to finance, refinance or reimburse the cost of a certain college project approved in the Capital Improvement Budget of the County Council adopted pursuant to Section 705 of the Wicomico County Charter effective June 15, 2010 as the same may be amended, the County is with this Act authorized and empowered by resolution or resolutions of the County Council passed in Legislative Session to borrow from time to time an amount not exceeding Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500) and to evidence said borrowing by the issue and sale of general obligation serial maturity bonds of the County, in one or more series, in like aggregate par amount. Unless otherwise advised by bond counsel to the County, any resolution adopted in accordance with Section 3 below may provide that any such series may be issued as a single bond in installment and/or draw-down form as long as such installment bond provides for annual principal payments thereon.

It is hereby recognized and acknowledged that the details of the Capital Improvement Budget of the County for the fiscal year beginning July 1, 2010 is necessarily subject to change because of corresponding changes in construction and other costs, project time schedules, availability of other funding sources and other circumstances not now known or anticipated. It is the purpose and intent of this Act to authorize the borrowing of money to finance the projects identified in Section 2 hereof as such projects are referenced in the Capital Improvements Budget for the fiscal year beginning July 1, 2010, as amended, and in any amended or subsequent capital budget or capital improvement program, unless otherwise contrary to applicable law.

SECTION 2. AND BE IT FURTHER ENACTED, that with respect to the public improvement, school and college projects listed below, the word "cost" as used in Section 1 hereof shall, unless particularly limited in this Section, include land and right-of-way acquisition and development; site and utility improvements; construction of new buildings or schools and/or renovations of, additions to, or improvement of, existing buildings and schools; construction or provision of facilities; acquisition and installation of equipment; pedagogical material for any school project; capitalized interest during construction and for a reasonable period thereafter, whether or not specifically stated; professional fees and expenses incurred in connection with any such public improvement, school or college projects or the financing thereof (which shall include, without limitation, planning, design, engineering, architectural, fiscal and legal expenses related thereto); costs of issuing the bonds (which costs may include the costs of bond insurance or other credit enhancement); and any of such costs which may represent the County's share or contribution to the financing or refinancing of any such project. The total bond funds to be appropriated or paid to pay the costs of such public improvement, school and college projects as provided in the Capital Improvement Budget shall be allocated among the following public improvement, school and college projects in the amount set forth below opposite each, subject to such variations or modifications as are herein provided:

- |   |                            |            |
|---|----------------------------|------------|
| 1. Recreation & Parks                                 |                            |            |
|   | Perdue Stadium             | 50,000     |
| 2. Board of Education                                 |                            |            |
|   | Bennett Middle A/E/CM Fees | 2,000,000  |
| 3. Wor-Wic Community College – Allied Health Building |                            | \$ 241,500 |
| 4. Contingency Fund                                   |                            | 300,000    |

Item No. 4 above, being Contingency Fund, in the amount of Three Hundred Thousand Dollars (\$300,000), shall be used to pay any difference between the actual cost of any one or more of the above-listed public improvement, school or college projects to be funded from bond proceeds and the respective amount allocated thereto. Said fund also shall be used to pay the expenses of any bond issue hereunder. Any excess of the bond-financed actual costs of the above-listed public improvement, school or college projects shall be credited to the Contingency Fund, and said Contingency Fund shall likewise be credited with any appropriation transfers or any supplementary appropriation made by the County Council in Legislative Session to meet any increase in the cost of the above-listed projects. If there shall be a balance remaining in the said Contingency Fund, said balance shall be credited to the Capital Program for the fiscal year following the year in which said balance is ascertained or shall otherwise be applied in accordance with Section 710 and Section 712 of the County Charter (as such sections may be re-numbered from time to time), as applicable.

SECTION 3. AND BE IT FURTHER ENACTED, that the bonds hereby authorized may be issued at one time or in series from time to time in the current or any future fiscal year, separately or in conjunction with other bonds the County may be authorized to issue, all as may be determined by one or more resolutions adopted by the County Council in Legislative Session, except as provided herein. Prior to passage of any such resolution, the County Council shall obtain a certificate from the Director of Finance that the limitation on indebtedness contained in the County Charter will not be exceeded by the issuance of bonds in the amount contemplated and the County Council shall also obtain a certificate from the County Attorney that the authority hereby conferred for the contemplated bond issue has not been previously exercised and that such authority has not been repealed, revoked or suspended in accordance with the County Charter. Each such resolution shall fix, prescribe, determine or provide for the determination of the title, date of issue, and denomination(s) of said bonds, the aggregate principal amount and maturities thereof, the form and tenor thereof, and the manner of executing the same, the places of payment thereof and of the interest to accrue thereon, the agent or agents of the County to make such payment, any registrar and/or paying agent for such bonds, the reserved right, if any, to redeem any such bonds prior to maturity and the premium or premiums, if any, payable upon the exercise of said right, the rate or rates of interest payable on said bonds, or the method of determining the same, the purchaser of such bonds, details relating to the public sale of such bonds (unless such resolution shall provide for the private sale of such bonds in accordance with subsection (c) below, in which event such resolution shall provide for the manner of private sale), the allocation of such bond proceeds to one or more of the public improvement, school or college projects identified in Section 2 hereof, whether any premium paid to the County upon the sale of any such bonds shall be applied to the costs for which such bonds are authorized to be issued or to the payment of debt service on such bonds, whether earnings derived from the investment of the proceeds of any such bonds authorized hereby shall be applied to the purposes for which such bonds are issued or treated as general revenues of the County and applied to general County purposes, any designations, elections, determinations or other matters required or authorized by the American Recovery and Reinvestment Act of 2009, as amended (the "ARRA"), to the extent such bonds are issued under authority of the ARRA, and any other details, terms or conditions relating to the issuance, sale, delivery and payment of such bonds to the extent not contrary to applicable law or this Act; provided, however, that:

(a) if authorized by applicable law, any such issue may be sold at a price at, above or less than the par value thereof, as determined by the County Council by resolution;

(b) the bonds of each such issue shall become due and payable in accordance with the consecutive annual serial maturity plan over a period not exceeding thirty (30) years from the date of issue;

(c) each issue of said bonds shall be sold by award to the best bidder therefor after solicitation of competitive bids, which competitive bids may be submitted by sealed bid and/or electronic bid as provided in such resolution, following at least ten (10) days published notice of the sale, which notice may be published solely in summary form if so determined by the County Council by resolution in Legislative Session unless the County Council in Legislative Session shall adopt a resolution providing that any such issue shall be sold by private sale;

(d) no such bonds shall be issued in any fiscal year unless there shall be appropriated by the County Council an amount sufficient to pay debt service due on said bonds in such fiscal year; and

(e) in any such resolution the County Council may approve, determine or provide for the payment of a commitment fee, breakage compensation or related costs to the purchaser of any such bonds and/or the execution and delivery by the County of any continuing disclosure undertaking or any ongoing representations or certifications.

Notwithstanding the foregoing, as determined or provided for by the County Council by resolution adopted in Legislative Session, the County Council may provide that the actual award or sale of any such bonds and the determination of any final details relating thereto may be made by the County Council by a resolution or resolutions adopted in a non-legislative session or by an authorized official of the County by order.

Acting pursuant to the authority of Section 24 of Article 31 of the Annotated Code of Maryland (West 2002, as replaced, supplemented or amended), the County is hereby authorized and empowered to issue and sell from time to time, in the current or any future fiscal year, separately or in conjunction with other bonds the County may be authorized to issue, one or more series of general obligation serial maturity bonds for the purpose of refunding or advance refunding any of the bonds authorized hereby then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption, purchase or maturity of bonds to be refunded, funded interest and paying all costs and expenses in connection with the issuance, sale and delivery of such refunding bonds, for the public purpose of realizing savings to the County in the aggregate cost of debt service on either a direct comparison, present value or other basis; provided that the aggregate principal amount of each such issue of refunding bonds does not exceed one hundred thirty percent (130%) of the aggregate principal amount of bonds refunded thereby. Prior to the issuance, sale and delivery of any such issue of refunding bonds, the County Council in Legislative Session shall adopt a resolution or resolutions authorizing such refunding bonds and specifying, describing, determining, providing for and approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Notwithstanding the foregoing, as determined or provided for by the County Council by resolution adopted in Legislative Session, the County Council may provide that the actual award or sale of any such refunding bonds and the determination of any final details relating thereto may be made by the County Council by a resolution or resolutions adopted in a non-legislative session or by an authorized official of the County by order.

Any of the bonds described in this Section 3, when duly issued, executed and delivered in the manner above-described, shall constitute general obligations of the County, to the payment of which, when due, the faith and credit of the County are pledged, and any said resolution of the County Council in Legislative Session shall constitute an irrevocable covenant of the County annually to appropriate the amount necessary to pay the principal of and interest on said bonds when due and, subject to any lawful limitations on the County's taxing power set forth in the County Charter, as that taxing power may relate to the bonds, to levy ad valorem taxes upon all property in the County subject to County taxation in rate and amount, in each year, sufficient to meet said annual appropriations.

The bonds authorized by this Act are hereby expressly exempted from the application or the provisions of Sections 10 and 11 of Article 31 of the Annotated Code of Maryland (West 2002, as replaced, supplemented or amended). References in this Act to the bonds shall include the refunding bonds authorized hereby, unless otherwise expressly provided or unless the context requires otherwise.

SECTION 4. AND BE IT FURTHER ENACTED, that pursuant to the authority of Section 12 of Article 31 of the Annotated Code of Maryland (West 2002, as replaced, supplemented or amended), the County is hereby authorized to issue and sell its general obligation bond anticipation notes from time to time in one or more series in an aggregate principal amount not to exceed Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500) prior to and in anticipation of the sale of the bonds authorized hereby in order to finance or reimburse costs of the public improvement, school or college projects identified in Section 2 hereof on an interim basis. Prior to the issuance, sale and delivery of any such bond anticipation notes, the County Council in Legislative Session shall adopt a resolution or resolutions authorizing such bond anticipation notes and specifying, describing, determining, providing for and approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law, including (without limitation) any designations, elections, determinations or other matters required or authorized by the ARRA, to the extent such bond anticipation notes are issued under the authority of the ARRA. Any of the bond anticipation notes described in this Section 4, when duly issued, executed and delivered in the manner above-described, shall constitute general obligations of the County, to the payment of which, when due, the faith and credit of the County are pledged, and any said resolution of the County Council in Legislative Session shall constitute an irrevocable covenant of the County annually to appropriate the amount necessary to pay the principal of and interest on said bond anticipation notes when due and, subject to any lawful limitations on the County's taxing power set forth in the County Charter, as that taxing power may relate to the bond anticipation notes, to levy ad valorem taxes upon all property in the County subject to County taxation in rate and amount, in each year, sufficient to meet said annual appropriations.

SECTION 5. AND BE IT FURTHER ENACTED, that the proceeds from the sale of any of the bonds or bond anticipation notes herein authorized shall be paid to the Director of Finance of the County, who shall first deduct any amount received by her on account of accrued interest and shall apply said amount on account of payment of the first maturing interest on said bonds or bond anticipation notes and who shall thereafter disburse said bond or note proceeds for or on account of financing or refinancing the cost of public improvement, school or college projects listed in Section 2 hereof and expenses of bond or note issuance. All projects shall be deemed capital projects for the purpose of this Act, any subsequent bond issue, and any commission created hereunder. Upon the order of the County Council in Legislative Session, said bond or note proceeds for or on account of the public improvement projects listed in Section 2 hereof shall be disbursed. Upon the joint order of the County Council in Legislative Session and the Board of Education of Wicomico County, said bond or note proceeds for or on account of the cost of the school projects listed in Section 2 hereof shall be disbursed. Upon the joint order of the

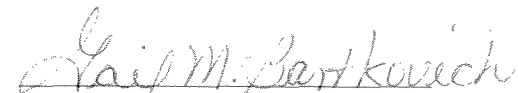
County Council in Legislative Session and the Board of Trustees of Wor-Wic Community College, said bond or note proceeds for or on account of the cost of the college projects listed in Section 2 hereof shall be disbursed. Notwithstanding the foregoing, any refunding bond proceeds may be disbursed on the order of the County Council in Legislative Session. Within the limitations of the County Charter and of this Act, full authority is hereby conferred upon the said County Council and the Board of Education and the Board of Trustees, as applicable, acting jointly with regard to said school or college projects, as applicable, to expend said bond or note proceeds for said school or college projects, as applicable, in such manner as will best achieve the stated objectives of this Act and of the Capital Improvement Budget of the County. Within the aforesaid limitations, authority is hereby delegated to the department or commission charged by law with the operation and administering of the above-listed public improvement, school and college projects to program the expenditures of its share of said bond or note proceeds in such manner as will best achieve the stated objectives of this Act and of the Capital Improvement Budget of the County above referred to.

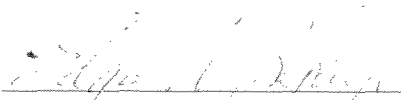
SECTION 6. AND BE IT FURTHER ENACTED, that the various provisions of this Act shall be regarded as separate and severable; and should any section, sentence, clause or provision thereof be held invalid or unconstitutional for any reason, the validity of the remaining parts hereof shall not be affected thereby.

SECTION 7. AND BE IT FURTHER ENACTED, that this Act, having been passed by the County Council of Wicomico County, at its Legislative Session on the 7<sup>th</sup> day of September, 2010, shall take effect sixty (60) days after approval by the County Executive or failure of the County Executive to return this Act in accordance with Charter Section 411.C., subject to the provisions of Charter Section 411.D., unless a proper petition for referendum thereof shall be filed in accordance with Charter Section 312, in which event this Act shall not take effect until the expiration of thirty (30) days following the approval of this Act by a majority of the qualified voters of the County voting in any such referendum.

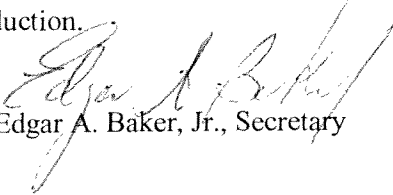
Certified correct as passed and adopted by the County Council of Wicomico County, Maryland, this 7<sup>th</sup> day of September, 2010.

WICOMICO COUNTY, MARYLAND

BY:   
Gail M. Bartkovich, President

BY:   
Edgar A. Baker, Jr., Secretary

I HEREBY CERTIFY that twenty-five (25) copies of the above Bill are available for distribution to the public and press at the time of its introduction.

  
Edgar A. Baker, Jr., Secretary

Explanation:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

~~Strike out indicates material deleted from law.~~

~~CAPITAL - STRIKE OUT~~ indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill.



COUNTY COUNCIL  
OF  
WICOMICO COUNTY, MARYLAND

BILL NO. 2010-09

INTRODUCED BY: Council at request of Executive

Legislative Day No. 16

Date: August 17, 2010

Introduced, read first time, ordered posted and public hearing scheduled on: September 7, 2010

Time: 6:30 pm Location: Council Chambers

**AN ACT** to authorize and empower Wicomico County, Maryland to borrow on the faith and credit of Wicomico County, Maryland an aggregate amount not exceeding Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500) and to evidence such borrowing by the issue and sale from time to time of one or more series of general obligation bonds of the County, the proceeds thereof to be used by Wicomico County to finance, refinance or reimburse all or a portion of the costs of projects for the Department of Recreation & Parks, the Board of Education of Wicomico County and Wor-Wic Community College for the planning, design, acquisition, construction, improvement, installation, renovation, rehabilitation, repairing, furnishing and equipping of land, facilities, buildings and structures, together with other costs and financing costs related thereto; authorizing the County Council to pass one or more resolutions prior to issuing all or any part of the bonds in order to fix, prescribe and determine the details of the bonds and the issuance and sale thereof; authorizing the issuance from time to time of one or more series of general obligation refunding bonds in order to refund or advance refund any of the bonds issued pursuant to the authority of this Act, provided that the aggregate principal amount of each such issue of refunding bonds does not exceed one hundred thirty percent (130%) of the aggregate principal amount of bonds refunded thereby; providing that all such bonds shall be general obligations of the County to which the faith and credit of the County are pledged and authorizing annual appropriations to pay the principal of and interest on said bonds and the levying of taxes to meet said appropriations, subject to any lawful limitations on the County's taxing power set forth in the Charter, as that taxing power may relate to such bonds; exempting all such bonds from the provisions of Sections 10 and 11 of Article 31 of the Annotated Code of Maryland; authorizing the issuance from time to time of one or more series of general obligation bond anticipation notes in an aggregate principal amount not to exceed Two Million Five Hundred Ninety-One Thousand Five Hundred Dollars (\$2,591,500) prior to and in anticipation of the sale of the bonds authorized hereby; providing for the disbursement of the proceeds of the bonds or bond anticipation notes authorized hereby; providing that the provisions of this Act shall be separable; and generally relating to the issuance and sale of such bonds or bond anticipation notes.

**PUBLIC HEARING:** Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on September 7, 2010 and concluded on September 7, 2010.

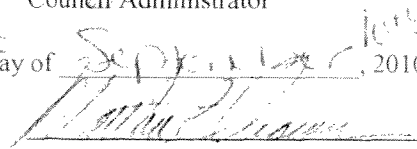
  
Council Administrator

**CERTIFICATION**

The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 7<sup>th</sup> day of September, 2010.

  
Council Administrator

Presented to the County Executive for approval this 10<sup>th</sup> day of September, 2010 at  
3:57 a.m. (5 days §411)

  
Council Administrator

**BY THE EXECUTIVE:**

*[Signature]*  
County Executive

**APPROVED**

Date: 9/13/10 (21 days §411)

**VETOED**

Date: \_\_\_\_\_

**EFFECTIVE DATE:**

This Bill having been approved by the County Executive and returned to the Council, becomes law on 9/13/10 and effective on: 11/2/10 (60 days §311)

**ENROLLMENT:**

Legislative Bill No. 2010-09 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

**CERTIFIED TRUE AND CORRECT**

*[Signature]*  
Council Administrator  
Date: 9/14/10

**ENROLLED**

*[Signature]*  
Council President  
Date: 9/14/2010