

ENROLLED

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND
LEGISLATIVE SESSION, 2014
BILL NO. 2014-10

Introduced: September 16, 2014

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 Dollars (\$2,000,000) 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 the costs of a project referred to as the Morris Mill Urban Service District Water Project, including costs of 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 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 series of refunding bonds does not exceed one hundred thirty percent (130%) of the aggregate principal amount of bonds refunded therefrom; exempting all such bonds and refunding bonds from the provisions of Sections 19-205 and 19-206 of the Local Government Article of the Annotated Code of Maryland; acknowledging and confirming the provisions of one or more resolutions adopted or to be adopted by the County Council as required by the United States Department of Agriculture ("USDA") with respect to any bonds or refunding bonds sold to or through USDA; 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 Dollars (\$2,000,000) prior to and in anticipation of the sale of the bonds authorized hereby in order to finance or reimburse costs of such project on an interim basis, capitalized interest and financing costs; authorizing the County Council to pass resolutions prior to issuing all or any part of the bonds, refunding bonds or bond anticipation notes in order to fix, prescribe, determine or provide for the details of such obligations and the issuance and sale thereof; providing that all such bonds, refunding bonds and bond anticipation notes 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 obligations 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 obligations; providing for the disbursement of the proceeds of the bonds, refunding 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, refunding bonds or bond anticipation notes authorized hereby.

WHEREAS, Wicomico County, Maryland (the "County") is authorized pursuant to Sections 10-203 and 19-401 of the Local Government Article of the Annotated Code of Maryland (previously codified as Section 5(P) of Article 25A of the Annotated Code of Maryland), as replaced, supplemented or amended, to borrow money on the faith and credit of the County for any proper purpose; and

WHEREAS, the County intends to undertake a project with several components that it is referring to globally as the Morris Mill Urban Service District Water Project; and

WHEREAS, the first phase of such project will generally involve the construction of a water tower and related improvements and the second phase of such project will generally involve development of a water distribution system; and

WHEREAS, the County has submitted applications to the United States of America, acting through the United States Department of Agriculture or any related department, division, agency or instrumentality (any such entity, "USDA"), for project funding; and

WHEREAS, by letter dated September 18, 2013, USDA issued an obligation of funds for a \$900,000 loan and a \$1,500,000 grant for a project it referred to as the Morris Mill Main/Water Towers, and by Resolution No. 19-2014, adopted by the County Council of Wicomico County, Maryland (the "County Council") on February 18, 2014, the County Council authorized acceptance of such loan and grant funding; and

WHEREAS, by letter dated April 21, 2014, USDA issued an obligation of funds for a \$1,100,000 loan and a \$1,500,000 grant for a project it referred to as Phase II Morris Mills Water Distribution, and by Resolution No. 37-2014, adopted by the County Council on April 15, 2014, the County Council authorized acceptance of such loan and grant funding; and

WHEREAS, any loan from USDA will be papered by one or more general obligation bonds issued by the County to the United States of America, acting through USDA; and

WHEREAS, it is the intention of the County to sell the bonds authorized by this Act to USDA, but the County is not limiting the purchaser of such bonds to USDA in the event such USDA loan funding becomes unavailable or the County is able to sell such bonds on terms more favorable than USDA can provide; and

WHEREAS, prior to passage of this Act, the County Council intends to amend the Capital Budget for Wicomico County, Maryland, adopted pursuant to Section 705 of the Wicomico County Charter on June 3, 2014, as the same may be further amended, in order to provide that the funds resulting from the issuance of the bonds authorized by this Act may be expended on the Morris Mill Urban Service District Water Project in accordance with Section 712 of the Wicomico County Charter; and

WHEREAS, the County Council deems that the Morris Mill Urban Service District Water Project to be funded from the bond proceeds provided for herein is 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 sums 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 finance, refinance or reimburse the cost of the Morris Mill Urban Service District Water Project, approved in the Capital Budget of the County Council adopted pursuant to Section 705 of the Wicomico County Charter on June 3, 2014, 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 Dollars (\$2,000,000) and to evidence said borrowing by the issue and sale of general obligation 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 at least annual principal payments thereon, unless such annual principal payments are not required by applicable law.

It is hereby recognized and acknowledged that the details of the Capital Budget of the County for the fiscal year beginning July 1, 2014, as the same may be amended, 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 Morris Mill Urban Service District Water Project identified in Section 2 hereof as such project is referenced in the Capital Budget for the fiscal year beginning July 1, 2014, as the same may be amended to include such project, 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 project 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 and improvement of new buildings, facilities or structures and/or renovations of, additions to, or improvement of, existing buildings, facilities or structures; acquisition and installation of equipment and furnishings; capitalized interest during construction and for a reasonable period thereafter, whether or not specifically stated; professional and other fees and expenses incurred in connection with the project or the financing thereof (which shall include, without limitation, planning, design, engineering, architectural, permitting, construction management, administrative, 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 such project. The total bond funds to be appropriated or paid to pay the costs of such project as provided in the Capital Budget shall be allocated to such project as set forth below, subject to such variations or modifications as are herein provided:

1. Morris Mill Urban Service District Water Project	\$2,000,000
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Any excess of the bond-financed actual costs of the above-listed project shall be credited to an appropriate fund, and said 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 project. If there shall be a balance remaining in the said 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.

References in this Act to the “Morris Mill Urban Service District Water Project” or the “project” are intended to refer to both phases of such project as contemplated at the time of introduction of this Act, as such project may be reconfigured in amendments to or future Capital Budgets of the County or future capital improvement programs of the County.

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 issuance of any such bonds, 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 place or places of payment thereof and of the interest to accrue thereon, any 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 private sale of such bonds (unless such resolution shall provide for the public sale of such bonds in accordance with clause (c) below), the allocation of such bond proceeds to the project 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 of the project (or components thereof) 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, to pay debt service on such bonds or treated as general revenues of the County and applied to general County purposes, 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 series 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 series 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, unless applicable law allows for a longer term or does not require a consecutive annual serial maturity plan;

(c) each series of said bonds shall be sold by private sale without competitive bidding, unless the County Council in Legislative Session shall adopt a resolution providing that any such series 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;

(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;

(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 series of bonds and/or the execution and delivery by the County of any continuing disclosure undertaking or any ongoing representations or certifications; and

(f) with respect to any such series of bonds sold to or through USDA, any such resolution may specify, prescribe, determine, approve or provide for any other matters, documents or security required by USDA for participation by the County in USDA's financing program.

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 determination of any final details relating thereto or the actual award or sale of any such series of bonds 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 19-207 of the Local Government Article of the Annotated Code of Maryland (previously codified as Section 24 of Article 31 of the Annotated Code of Maryland), 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 bonds for the purpose of refunding or advance refunding any of the bonds authorized hereby then outstanding, including the payment of any principal, 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 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 or present value basis or to achieve a debt restructuring permitted by applicable law; provided that, the aggregate principal amount of each such series of refunding bonds shall not exceed one hundred thirty percent (130%) of the aggregate principal amount of bonds refunded therefrom. Prior to the issuance, sale and delivery of any such series 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, provided that, funds available from other sources may be applied to pay debt service on such bonds and taxes that might otherwise be levied hereunder may be reduced or not levied to the extent of such funds being received or receivable.

The bonds authorized by this Act are hereby expressly exempted from the application or the provisions of Sections 19-205 and 19-206 of the Local Government Article of the Annotated Code of Maryland (previously codified as Sections 10 and 11 of Article 31 of the Annotated Code of Maryland), as replaced, supplemented or amended. References in Sections 3, 4 and 6 of 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 with regard to any series of the bonds authorized by Section 3 of this Act that are sold to USDA, the County Council hereby acknowledges that, pursuant to RUS Bulletin 1780-27 Loan Resolution (Public Bodies), or any similar loan resolution required by USDA, adopted by the County Council prior to the passage of this Act or to be adopted by the County Council subsequent to the passage of this Act (any one or more of such resolutions so required by USDA being referred to herein collectively as the "USDA Loan Resolution") the County, among other matters, (i) agrees to indemnify USDA in certain circumstances, (ii) resolves that upon certain defaults USDA may declare such series of the bonds immediately due and payable and/or take certain actions with regard to the Morris Mill Urban Service District Water Project, (iii) agrees not to take certain actions with respect to the Morris Mill Urban Service District Water Project without the prior written consent of USDA, and (iv) agrees not to defease such series of the bonds or undertake other borrowings in connection with the Morris Mill Urban Service District Water Project without the prior written consent of USDA in certain circumstances, and by passage of this Act the Council hereby acknowledges and confirms the provisions of the USDA Loan Resolution as if the same were set forth in full in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, that pursuant to the authority of Sections 19-211 through 19-221 of the Local Government Article of the Annotated Code of Maryland (previously codified as Section 12 of Article 31 of the Annotated Code of Maryland), 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 Dollars (\$2,000,000) prior to and in anticipation of the sale of the bonds authorized hereby in order to finance or reimburse costs of the

project identified in Section 2 hereof on an interim basis, capitalized interest and costs and expenses in connection with the issuance, sale and delivery of such bond anticipation notes. 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. 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 bond anticipation notes 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. The County covenants (i) to issue the bonds in anticipation of the sale of which such bond anticipation notes are issued as soon as there is no longer a reason for deferring the issuance of such bonds and (ii) to pay from the proceeds of the bonds in anticipation of the sale of which any such bond anticipation notes are issued the principal of such bond anticipation notes and, to the extent that the interest thereon is not paid from the sale of such bond anticipation notes, the interest on such bond anticipation notes. Notwithstanding the foregoing sentence, any of the bond anticipation notes described in this Section 4, when duly issued, executed and delivered in the manner above-described, shall also 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; provided that, funds available from other sources may be applied to pay debt service on such bond anticipation notes and taxes that might otherwise be levied hereunder may be reduced or not levied to the extent of such funds being received or receivable.

SECTION 6. 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 him on account of accrued interest, if any, 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, reimbursing or refinancing the costs of project listed in Section 2 hereof. Such project shall be deemed a capital project for the purpose of this Act and any subsequent bond issue.

SECTION 7. 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 8. AND BE IT FURTHER ENACTED, that this Act, having been passed by the County Council of Wicomico County, at its Legislative Session on the 7th day of October, 2014, 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 7th day of October, 2014.

WICOMICO COUNTY, MARYLAND


BY: Matt Holloway, President


BY: Edgar A. Baker, Jr., Secretary

I HEREBY CERTIFY that on introduction copies of the Bill shall be made available for distribution to the public, press and other news media.


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. 2014-10

Legislative Day No. 18

INTRODUCED BY: President of the Council upon recommendation of the County Executive

Date: September 16, 2014

Introduced, read first time, ordered posted and public hearing scheduled on: October 7, 2014

Time: 6:30 p.m.

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 Dollars (\$2,000,000) 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 the costs of a project referred to as the Morris Mill Urban Service District Water Project . . .

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 October 7, 2014 and concluded on October 7, 2014.


Council Administrator

CERTIFICATION

The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 7th day of October, 2014.


Council Administrator

Presented to the County Executive for approval this 9th day of October, 2014 at 11:25 a.m./p.m. (5 days §411)
a.m.


Council Administrator

BY THE EXECUTIVE:


County Executive

APPROVED
Date: Oct. 10, 2014
(21 days §411)

VETOED
Date: _____

EFFECTIVE DATE:

This Bill having been approved by the County Executive and returned to the Council, becomes law on October 10, 2014 and effective on: December 9, 2014. (60 days §311)

ENROLLMENT:

Legislative Bill No. 2014-10 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT


Council Administrator
Date: 10-17-14

ENROLLED


Council President
Date: 10-17-14