

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2002 Legislative Session

Bill No. CB-80-2002

Chapter No. 63

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Knotts, Bailey and Wilson

Co-Sponsors _____

Date of Introduction September 24, 2002

BILL

1 AN ACT concerning

2 The Issuance and Sale of Special Obligation Bonds

3 FOR the purpose of providing that special obligation bonds may be issued from time to time
4 under the provisions of this Act, Article 41, §§14-201 through 14-214 of the Annotated Code of
5 Maryland, as amended (2001 Replacement Volume) (the “Tax Increment Act”), Chapter 549 of
6 the Laws of Maryland 1995 (Article 17, Division 13, Section 10-268 of the Public Local Laws of
7 the State of Maryland), recodified as Section 10-269 of the Prince George’s County Code, as
8 amended and Section 9-1301 of Article 24 of the Annotated Code of Maryland, as amended
9 (collectively, the “Special Taxing District Act”) and CR-62-2002 of the County Council of
10 Prince George’s County, Maryland (the “Formation Resolution”) in an amount not to exceed the
11 aggregate principal amount of Seventy-five Million Dollars (\$75,000,000) for the purpose of
12 repaying a loan or a series of loans made or to be made by an authority or instrumentality of the
13 State of Maryland (the “State Agency”) to the County from the proceeds of bonds issued by such
14 State Agency for the purpose of financing the infrastructure improvements as more particularly
15 described herein, or, at the option of the County, for the County to finance the construction of
16 such improvements; making certain findings and determinations, among others, concerning the
17 public benefit and purpose of such special obligation bonds; providing that such special
18 obligation bonds authorized to be issued hereby shall be payable, first, from the amounts levied
19 and deposited in the Tax Increment Fund (as defined in the Formation Resolution) including
20 certain hotel rental taxes and, secondly, to the extent the Tax Increment Fund does not contain
21 monies in an amount sufficient for payment of debt service on such special obligation bonds and

1 to the extent amounts are required for deposit in funds and accounts created within the indenture
2 providing for the issuance of the State Agency bonds or the special obligation bonds to replenish
3 deficiencies therein and to pay the administrative expenses of the County and/or the State
4 Agency, from the special tax to be levied and deposited in the Special Taxing District Fund (as
5 defined in the Formation Resolution) and that the special obligation bonds shall not constitute a
6 general obligation debt of the County or a pledge of the County's full faith and credit or taxing
7 power other than the Tax Increment, the Hotel Tax and the Special Tax (each as defined in the
8 Formation Resolution); authorizing the County Executive of the County to specify, prescribe,
9 determine, provide for and approve certain details, forms, documents or procedures in
10 connection with such special obligation bonds issued hereunder and any other matters necessary
11 or desirable in connection with the authorization, issuance, sale and payment of such special
12 obligation bonds and the repayment of a loan or loans from a State Agency if such loan or loans
13 are secured by the County special obligation bonds; authorizing the County Executive to take
14 certain actions, to execute documents and make certain commitments on behalf of the County in
15 connection with the issuance, sale and delivery of such special obligation bonds; authorizing the
16 execution and delivery of such special obligation bonds and such other documents as may be
17 necessary and desirable to effectuate the financing of the infrastructure improvements, the
18 repayment of the State Agency loan or loans, if applicable, and the issuance, sale and delivery of
19 such special obligation bonds; and generally providing for, and determining various matters in
20 connection with, the issuance, sale, delivery and payment of such special obligation bonds.

21 WHEREAS, in order to assist in facilitating the financing for the public infrastructure
22 improvements described in Exhibit A attached hereto and made a part hereof, the County will
23 either issue its special obligation bonds to fund such improvements or to secure State Agency
24 bonds to be issued, the proceeds of which will be lent to the County to provide for the
25 construction of such improvements; and

26 WHEREAS, the owners of the real property in the National Harbor Development District
27 and the National Harbor Special Taxing District plan to develop retail, commercial, residential
28 and office facilities which shall be served by the public infrastructure improvements; and

29 WHEREAS, such development will further economic development within the County and
30 thus meet the public purposes contemplated by the Tax Increment Act, Special Taxing District
31 Act and the Formation Resolution; and

1 WHEREAS, the Formation Resolution has heretofore designated a contiguous area within
2 the County to be known as the “National Harbor Development District” as a “development
3 district” as that term is used in the Tax Increment Act and has also designated a coincident
4 contiguous area within the County to be known as the “National Harbor Special Taxing District”
5 as a “special taxing district” as that term is used in the Special Taxing District Act; and

6 WHEREAS, the proposed infrastructure improvements will be situated both within the
7 National Harbor Special Taxing District and outside of the National Harbor Special Taxing
8 District and all such proposed infrastructure improvements shall be reasonably related to one
9 another as required by the Special Taxing District Act; and

10 WHEREAS, the special obligation bonds will be issued and secured pursuant to the
11 provisions of the Tax Increment Act, the Special Taxing District Act and the Formation
12 Resolution; and

13 WHEREAS, to the extent that the Tax Increment and the Hotel Tax in any given fiscal year
14 of the County exceeds the debt service payable on the special obligation bonds in any such fiscal
15 year, as well as any other payment required to be satisfied by the Tax Increment and the Hotel
16 Tax, such excess may be paid over at the end of each such fiscal year or as otherwise provided
17 by the County to the owners of the real property in the National Harbor Development District or
18 their respective designees in such amounts and for such uses as determined by the County
19 Executive pursuant to the provisions of this Act and the Tax Increment Act; and

20 WHEREAS, the public infrastructure improvements to be financed will be owned by the
21 County but maintained by the owners of the real property located within the National Harbor
22 Development District and the National Harbor Special Taxing District pursuant to an agreement
23 with the County; now therefore,

24 SECTION 1. BE IT ENACTED by the County Council of Prince George’s County,
25 Maryland, as follows:

26 A. The words and terms used in this Act that are defined in the Tax Increment Act, the Special
27 Taxing District Act or the Formation Resolution shall have the meanings indicated in the Tax
28 Increment Act, the Special Taxing District Act and the Formation Resolution, as the case may
29 be, unless the context clearly requires a contrary meaning.

30 B. Acting pursuant to the Tax Increment Act, the Special Taxing District Act and the Formation
31 Resolution, it is hereby found and determined that the issuance of the Bonds, as hereinafter

1 defined, for delivery to the original purchaser in connection with a public offering or private
2 placement or to a State Agency to evidence the repayment of a loan or loans from such State
3 Agency and to secure the State Agency bonds, all for the purpose of providing funds for the
4 financing of the infrastructure improvements related to the development of the National Harbor
5 Development District and the National Harbor Special Taxing District, accomplish the public
6 purposes of the Tax Increment Act, the Special Taxing District Act and the Formation
7 Resolution and pursuant to the Formation Resolution and this Act, the County has complied with
8 Section 14-206 of the Tax Increment Act, Section 9-1301 (f) of Article 24 of the Annotated Code
9 of Maryland and Section 10-269 of the Prince George's County Code.

10 C. The types of infrastructure improvements to be financed as permitted by the Special Taxing
11 District Act and the Tax Increment Act in connection with the National Harbor Special Taxing
12 District and the National Harbor Development District are set forth in Exhibit A attached hereto
13 and made a part hereof including costs related to such improvements which are intended to be
14 funded with the issuance of the Bonds. It is recognized that the total costs shown as to be
15 financed with the issuance of the Bonds are estimated and that the specific items to be funded
16 and the amount of funding for each item shall be as further specified in documentation approved
17 by the County at the time of the issuance of the Bonds. The infrastructure improvements are
18 either contained within the geographic boundaries of the National Harbor Special Taxing District
19 or outside the National Harbor Special Taxing District and to the extent located outside the
20 National Harbor Special Taxing District are reasonably related to other infrastructure
21 improvements located within the National Harbor Special Taxing District.

22 D. Before the Bonds are issued, the Financial Officer of the County shall record among the Land
23 Records of the County at the cost of the National Harbor Special Taxing District a declaration
24 encumbering all real property located in the National Harbor Special Taxing District except for
25 property exempt by law and designating that property as subject to a special taxing district. The
26 declaration shall terminate when the Financial Officer records a release stating that all Bonds are
27 fully repaid or have been defeased.

28 E. No Special Tax shall accelerate by reason of a default on the Bonds issued to finance
29 infrastructure improvements in connection with the National Harbor Special Taxing District and
30 the National Harbor Development District.

1 F. No increase in the amount of the Special Tax levied shall result in a levy that exceeds the
2 maximum Special Tax applicable to any individual property in the National Harbor Special
3 Taxing District if any other property owner becomes delinquent in the payment of its Special
4 Tax securing the Bonds issued to finance infrastructure improvements related to the National
5 Harbor Special Taxing District and the National Harbor Development District.

6 G. Pursuant to the provisions of the Formation Resolution and in accordance with the Tax
7 Increment Act, so long as the Bonds remain outstanding, the County shall deposit into the Tax
8 Increment Fund all real property taxes received by the County for any Tax Year after the
9 effective date of the Formation Resolution equal to that portion of the taxes payable to the
10 County representing the levy on the Tax Increment that would normally be paid to the County as
11 well as the Hotel Tax collected by the County. Monies in the Tax Increment Fund are pledged to
12 the payment of the Bonds, provided that amounts may be withdrawn by the County Executive in
13 accordance with the provisions of the indenture pursuant to which the Bonds are being issued at
14 the end of any fiscal year of the County for remittance to the owners of real property in the
15 National Harbor Development District or their respective designees for use by such owners and
16 designees for any purpose that the County may legally use them, including but not limited to the
17 promotion and marketing of the mixed use development and the maintenance of the public
18 infrastructure improvements financed. The amounts of such remittances, the purposes for which
19 they will be used and any other conditions or provisions related thereto shall be contained in an
20 agreement to be executed between the County and such owners of real property or their
21 respective designees, provided that such agreement shall provide that monies in the Tax
22 Increment Fund will only be permitted to be withdrawn to the extent, and only to the extent, that
23 the monies in the Tax Increment Fund at the end of any fiscal year exceeds the amount needed to
24 pay debt service on the Bonds, to replenish any debt service reserve fund securing such Bonds or
25 State Agency bonds and to pay administrative costs of the County and/or the State Agency
26 related to the National Harbor Development District, the National Harbor Special Taxing District
27 and the issuance of the Bonds.

28 The pledge of the Hotel Tax shall be released at the time the Bonds are paid in full or defeased.

29 The County hereby covenants to levy the Special Tax in rate and amount at least sufficient in
30 each year in which any of the Bonds are outstanding to provide for the payment of the principal
31 of and interest on the Bonds to the extent of any deficiency in the Tax Increment Fund and to

1 provide for replenishment of any debt service reserve fund securing the Bonds or the State
2 Agency bonds as well as for the payment of County and/or State Agency administrative
3 expenses, to the extent such replenishments and expenses are not otherwise provided for, as
4 aforesaid. The Special Tax also may be levied with respect to refunding bonds issued under the
5 Special Taxing District Act pursuant to the provisions of an ordinance or resolution enacted or
6 adopted by the County in connection with the issuance of such refunding bonds. Monies in the
7 Special Taxing District Fund are pledged to the payment of the Bonds. A Special Tax will be
8 levied and imposed upon all real and personal property within the National Harbor Special
9 Taxing District, unless exempted by law or by the provisions hereof, for the purposes, to the
10 extent and in the manner provided in Exhibit B to the Formation Resolution through the
11 application of the procedures provided therein; provided however, that the maximum amount of
12 the National Harbor Special Tax may be reduced as provided in Exhibit B to the Formation
13 Resolution at the time of the sale of the Bonds to reflect an actual rate of interest on the Bonds of
14 less than ten percent (10%) per annum and the amount of Bonds actually issued to take into
15 consideration a reduction in the debt service on the Bonds by the County Executive. As set forth
16 in Exhibit B to the Formation Resolution and as provided in Paragraph H, no Special Tax shall
17 be levied to pay debt service on the Bonds unless the Tax Increment Fund does not contain
18 monies in an amount sufficient to pay such debt service on the Bonds, to replenish any debt
19 service reserve fund securing the Bonds or the State Agency bonds and to pay any administrative
20 expenses of the County and/or the State Agency. Further, the Special Tax levied and imposed by
21 the Formation Resolution in the National Harbor Special Taxing District shall take effect and be
22 in force for the fiscal year beginning July 1, 2003, provided that such Special Tax shall terminate
23 when the Bonds are no longer outstanding which, for purposes of this Act, as it relates only to
24 the Special Tax, shall mean the Bonds have been fully repaid or defeased.

25 H. The special obligations bonds may be issued in one or more series in an aggregate principal
26 amount not to exceed Seventy-five Million Dollars (\$75,000,000) (the "Bonds"). The proceeds
27 of the Bonds will be utilized solely to finance all or part of the costs of the improvements
28 described in Exhibit A attached hereto and made a part hereof through the issuance of such
29 Bonds for delivery to the original purchaser in connection with a public offering or private
30 placement or to a State Agency to evidence the repayment of a loan or a series of loans and to
31 secure the State Agency bonds as permitted pursuant to the provisions of the Special Taxing

1 District Act and the Tax Increment Act. The Bonds will be payable, first, from the amounts
2 levied and deposited in the Tax Increment Fund created by the Formation Resolution including
3 the Hotel Tax, and, secondly, to the extent the Tax Increment Fund does not contain monies in an
4 amount sufficient for payment of debt service on such Bonds and to the extent amounts are
5 required for deposit in any debt service reserve fund securing the Bonds or the State Agency
6 bonds to replenish deficiencies therein, and to pay County and/or State Agency administrative
7 expenses related to the National Harbor Development District and the National Harbor Special
8 Taxing District from the Special Tax to be levied and deposited in the Special Taxing District
9 Fund. Provisions may be made for municipal bond insurance or any other type of financial
10 guaranty of the Bonds, if applicable. In addition, the Bonds may be secured through the
11 establishment of additional sinking funds or the pledge of other assets and revenues toward the
12 payment of the principal and interest on the Bonds, if applicable. The Bonds issued hereunder
13 are a special obligation of the County and do not constitute a general obligation debt of the
14 County or a pledge of the County's full faith and credit or taxing power except for the Special
15 Tax, the Hotel Tax and the Tax Increment. In addition, Bonds issued hereunder may be refunded
16 by bonds issued under the Tax Increment Act and/or the Special Taxing District Act.

17 I. The Bonds shall be executed in the name of the County and on its behalf by the County
18 Executive, by manual or facsimile signature, the corporate seal of the County or a facsimile
19 thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the
20 County Council or the Chief Administrative Officer by manual or facsimile signature. If
21 applicable, the loan agreement to be entered into between the County and the State Agency (the
22 "Loan Agreement"), the acquisition or development agreement(s) to be entered into among the
23 County, any other governmental entity, if necessary, the State Agency, if applicable, and the
24 developer of the National Harbor Development District and the National Harbor Special Taxing
25 District to provide for the construction by the developer and the acquisition by the County of the
26 public improvements related to the National Harbor Development District and the National
27 Harbor Special Taxing District (the "Acquisition Agreement") and, where applicable, all other
28 documents as the County Executive deems necessary to effectuate the issuance, sale and delivery
29 of the Bonds of any series, shall be executed in the name of the County and on its behalf by the
30 County Executive by manual signature, and the corporate seal of the County or a facsimile
31 thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the

1 County Council or the Chief Administrative Officer by manual signature. Promptly upon
2 enactment of this Act by the County Council, the County Executive or, with the County
3 Executive's written approval, the Financial Officer, shall obtain a letter of intent or similar
4 undertaking from the owners of real property in the National Harbor Development District and
5 the National Harbor Special Taxing District, the developer of the National Harbor Development
6 District and the National Harbor Special Taxing District or such of said person or entities or
7 other interested persons or entities as the County Executive or, with the County Executive's
8 written approval, the Financial Officer, shall deem appropriate, providing assurances in form and
9 substance satisfactory to the County Executive or, with the County Executive's written approval,
10 the Financial Officer, regarding payment by such persons or entities of administrative and
11 transactions costs in connection with the issuance, sale and delivery of the Bonds and the
12 consummation of the transactions contemplated hereby and regarding such other matters as shall
13 be deemed to be appropriate. If any officer whose signature or countersignature or a facsimile of
14 whose signature or countersignature appears on the Bonds of any series or any of the aforesaid
15 documents ceases to be such officer before the delivery of the Bonds of such series or any of the
16 other aforesaid documents, such signature or countersignature or such facsimile shall
17 nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in
18 office until delivery. The County Executive, the Clerk of the County Council and other officials
19 of the County are hereby authorized and empowered to do all such acts and things and execute
20 such documents and certificates as the County Executive may determine to be necessary to carry
21 out and comply with the provisions of this Act, subject to the limitations set forth in the Special
22 Taxing District Act, the Tax Increment Act and this Act.

23 J. The Bonds shall be delivered to the original purchaser in connection with a public offering or
24 private placement or privately placed with a State Agency upon such terms and conditions as the
25 County Executive shall approve. The County Council deems it to be in the best interest of the
26 County to authorize the County Executive to approve the terms of the sale of the Bonds, within
27 the limitations of the Special Taxing District Act, the Tax Increment Act and this Act.

28 K. Subject to the provisions of this Act, the County Executive by executive order:

29 (1) shall prescribe the form, tenor, terms and conditions of and security for the Bonds,
30 including the allocation of the Hotel Tax;

1 (2) shall prescribe the principal amounts, rate or rates of interest which shall not exceed
 2 ten percent (10%) per annum, premiums, if any, denominations, date, maturity or maturities
 3 (with the limits prescribed in the Special Taxing District Act and in the Tax Increment Act), and
 4 the time and place or places of payment of the Bonds, and the terms and conditions and details
 5 under which the Bonds may be called for redemption prior to their stated maturities;

6 (3) may appoint bond counsel, underwriters, a financial advisor and if necessary, may
 7 appoint a trustee, a bond registrar and a paying agent or agents for the Bonds;

8 (4) shall approve the form and contents of, and execute and deliver (where applicable),
 9 the Loan Agreement, the Acquisition Agreement and such other documents to which the County
 10 is a party and which may be necessary to effectuate the issuance, sale and delivery of the Bonds;

11 (5) may execute and deliver a contract or contracts for the purpose and sale of the Bonds
 12 (or any portion thereof) in form and content satisfactory to the County Executive;

13 (6) shall determine the time of execution, issuance, sale and delivery of the Bonds and
 14 prescribe any and all other details of the Bonds;

15 (7) shall approve the terms of the sale of the Bonds, as provided in Paragraph J hereof;

16 (8) shall provide for the direct or indirect payment of all costs, fees and expenses
 17 incurred by or on behalf of the County in connection with the issuance, sale and delivery of the
 18 Bonds, including (without limitation) costs of printing (if any) and issuing the Bonds, the
 19 funding of reserves, legal expenses (including the fees of bond counsel) and compensation to any
 20 person performing services by or on behalf of the County in connection therewith; and

21 (9) shall do any and all things necessary, proper or expedient in connection with the
 22 issuance, sale and delivery of the Bonds in order to accomplish the legislative policy of the
 23 Special Taxing District Act, the Tax Increment Act and the public purposes of this Act, subject
 24 to the limitations set forth in the Special Taxing District Act and the Tax Increment Act and any
 25 limitations prescribed by this Act.

26 This delegation of authority to the County Executive is subject to his discretion and to the extent
 27 he does not exercise such discretion pursuant to the provisions of this Act, neither such officer
 28 nor the County shall be subject to any liability.

29 SECTION 2. AND BE IT FURTHER ENACTED, that the provisions of this Act are
 30 severable, and if any provision, sentence, clause, section or part hereof is held or determined to
 31 be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such

1 | illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the
2 | remaining provisions, sentences, clauses, sections or parts of this Act or their application to other
3 | persons or circumstances. It is hereby declared to be the legislative intent that this Act would
4 | have been passed if such illegal, invalid, unconstitutional or inapplicable provision, sentence,
5 | clause, section or part had not been included herein, and as if the person or circumstances to
6 | which this Act or any part hereof are inapplicable had been specifically exempted herefrom.

7 | SECTION 3. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days
8 | from the date it becomes law.

Adopted this 16th day of October, 2002.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____

Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____

BY: _____

Wayne K. Curry
County Executive

Exhibit A available in hard copy only