

INTRODUCED \_\_\_\_\_  
PUBLIC HEARING \_\_\_\_\_  
COUNCIL ACTION \_\_\_\_\_  
EXEC. ACTION \_\_\_\_\_  
EFFECTIVE DATE \_\_\_\_\_

**County Council Of Howard County, Maryland**

2009 Legislative Session

Legislative Day No. 15

**Bill No. 57-2009**

Introduced by: The Chairperson at the request of the County Executive

AN ACT to authorize and empower Howard County, Maryland to borrow, on its full faith and credit, up to \$18,000,000 from the Maryland Water Quality Financing Administration (the "Administration"), and to issue and sell its installment bonds to the Administration, the proceeds thereof to be used to pay costs of Capital Project No. S6245 (Nitrogen Loading Reduction), as described in the County's 2010 Capital Budget, and to pay all related costs; and to levy taxes upon the assessable property within the County sufficient, together with benefit assessments, ad valorem taxes levied upon assessable property in the Metropolitan District and other available funds, to pay the debt service on such bonds; authorizing the County to enter into one or more Loan Agreements with the Administration to effect and further evidence such borrowing; and making certain findings and determinations.

Introduced and read first time \_\_\_\_\_, 2009. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2009.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Bill was read the third time on \_\_\_\_\_, 2009 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_day of \_\_\_\_\_, 2009 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Approved by the County Executive \_\_\_\_\_, 2009.

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Recitals**

2  
3 As a part of the Capital Budget for the fiscal year ending June 30, 2010 (the "Capital Budget"), it  
4 is necessary that Howard County, Maryland (the "County") borrow a sum not exceeding \$18,000,000 to  
5 be used for payment of the costs of Capital Project No. S6245, as specified in the Capital Budget (the  
6 "Project") which Project is more particularly described in Appendix A attached hereto and incorporated  
7 herein, and for payment of costs of issuance of any obligations issued to evidence such borrowing.

8 Pursuant to and in accordance with the Maryland Water Quality Financing Administration Act,  
9 Sections 9-1601 to 9-1622 of the Environment Article, Annotated Code of Maryland, as amended (the  
10 "MWQFA Act"), the Maryland Water Quality Financing Administration (the "Administration") is  
11 authorized to issue its bonds to provide moneys for deposit into the Maryland Water Quality Revolving  
12 Loan Fund (the "Fund") to be used to make loans to "local governments" for the purpose of financing all  
13 or a portion of the cost of a "wastewater facility" (both as defined in the MWQFA Act).

14 Section 9-1606 of the MWQFA Act provides as follows:

15 "9-1606 Loans.

16 (a) *Loan Agreement.* A loan made by the Administration shall be evidenced by a loan  
17 agreement. Loans made from the Water Quality Fund shall be subject to the provisions of 9-  
18 1605(d)(1) of this article. Loans made from the Drinking Water Loan Fund shall be subject to the  
19 provisions of § 9-1605.1 (d) (1) of this subtitle. Subject to the provisions of any applicable bond  
20 resolution, the Administration may consent to the modification, with respect to rate of interest,  
21 time of payment of any installment of principal or interest, security, or any other term of any loan  
22 agreement or loan obligation. In connection with any security received by or owned by the  
23 Administration, including any loan obligations, the Administration may commence any action to  
24 protect or enforce the rights conferred upon it by any law or loan agreement or loan obligation.

25 (b) *Issue and sale of loan obligations by borrower.* Notwithstanding any other provision  
26 of public general or public local law, charter, or ordinance, a borrower may issue and sell loan  
27 obligations to the Administration:

28 (1) At private sale, without public bidding;

29 (2) Without regard to any limitations on the denomination of such obligations; and

30 (3) At any interest rate or cost or at any price that the borrower considers necessary or  
31 desirable.

1 (c) *Payment of fees or charges by borrower.* A borrower may pay any fees or  
2 charges necessary to enable the Administration to sell its bonds, including any fees for the  
3 insurance of its loan obligations or bonds of the Administration, or to provide any other  
4 guarantee, credit enhancement, or additional security for any such loan obligations or bonds.

5 (d) *Pledge of moneys borrower is entitled to receive from State.* Notwithstanding  
6 any other provision of public general or public local law, charter, or ordinance, a borrower may  
7 agree with the Administration to pledge any moneys that the borrower is entitled to receive from  
8 the State, including the borrower's share of the State income tax, to secure its obligations under a  
9 loan agreement. The State Comptroller and the State Treasurer shall cause any moneys withheld  
10 under such a pledge to be paid to, or applied at the direction of the Administration.

11 (e) *Loan obligation cancelable only upon repayment in full.* Each loan agreement  
12 shall contain a provision whereby the borrower acknowledges and agrees that the borrower's loan  
13 obligation is cancelable only upon repayment in full and that neither the Administration, the  
14 Secretary, nor the Board is authorized to forgive the repayment of all or any portion of the loan,  
15 except for loans to disadvantaged communities, pursuant to the federal Safe Drinking Water Act.

16 (f) *Default on loan obligation.* In the event of a default on a loan obligation by a borrower  
17 other than a local government, the Administration may place a lien against property of the  
18 borrower securing the loan which, subject to the tax liens of the federal, State, and local  
19 governments, shall have the same priority and status as a lien of the State for unpaid taxes under  
20 §§ 14-804 and 14-805 of the Tax-Property Article. The Administration may exercise the same  
21 rights and powers in enforcing such lien and collecting funds for the payment of amounts in  
22 default under the loan obligation as the State may exercise in collecting unpaid taxes under Title  
23 14, Subtitle 8 of the Tax-Property Article."

24 The Capital Budget includes the appropriation of \$18,000,000 to be borrowed from the  
25 Administration in accordance with the MWQFA Act to pay a portion of the costs of the Project and to pay  
26 all related costs. The County is a "local government" and the Project is a "wastewater facility", both as  
27 defined in the MWQFA Act.

28 **Now therefore, be it enacted by the County Council of Howard County, Maryland, that,**

29 **Section 1.** All terms used herein with an initial capital letter and defined in the Recitals hereof  
30 shall have the meanings given such terms therein, unless the context clearly indicates a contrary meaning.

31 **Section 2.** The County is hereby authorized and empowered to borrow, on its full faith and  
32 credit, an amount not exceeding \$18,000,000 from the Administration and to issue and sell one or more  
33 installment bonds (each, a "Bond") to the Administration, at one time or from time to time within four  
34 years from the effective date of this Act, pursuant to and in accordance with the Howard County Charter

1 and the MWQFA Act, the proceeds thereof to be used for payment of costs of the Project, as more  
2 particularly specified and described in Appendix A hereto and in the County's Capital Budget and for  
3 payment of all related costs, including, without limitation, (a) the costs incurred by the County in  
4 connection with the issuance of the Bond or Bonds to the Administration, and the cost of planning,  
5 construction, improvements, renovation, rehabilitation, equipping, engineering and architect's services,  
6 surveys, landscaping, site development and land acquisition, to the extent permitted under the MWQFA  
7 Act, (b) each Bond shall constitute a "loan obligation" within the meaning of the MWQFA Act, and (c)  
8 the County is further authorized to enter into a Loan Agreement with the Administration (a "Loan  
9 Agreement") to effect and evidence each loan from the Administration.

10 **Section 3.** For each Bond issued under this Act, the County Council, by an ordinance or  
11 ordinances adopted from time to time in accordance with Sections 606 and 618 of the Howard County  
12 Charter, the MWQFA Act, and other applicable provisions of law, shall provide for (a) the issuance and  
13 sale of such Bond to the Administration, (b) the designation, form, tenor, maximum principal amount  
14 (and the formula for computing the final principal amount), denomination and maturity (not exceeding 30  
15 years), (c) the amortization schedule of such Bond (or the formula for computing such schedule), (d) the  
16 interest rate (or the method of determining such rate) payable on such Bond, and (e) the form and terms  
17 and conditions of the Loan Agreement.

18 **Section 4.** For the purpose of paying the principal of and interest on the Bonds as the same shall  
19 become payable, the County Council shall levy annually ad valorem taxes upon the assessable property in  
20 Howard County sufficient, together with benefit assessments, ad valorem taxes levied upon assessable  
21 property in the Metropolitan District and other available funds, to pay the principal of and interest on the  
22 Bonds until the entire principal amount of the Bonds shall mature and be redeemed.

23 **Section 5.** The County anticipates that a portion of the costs of the Project will be paid prior to  
24 the issuance of the Bonds. The amount of such costs so paid will depend on various factors, including,

1 without limitation, the timing and speed of progress on the Project, the availability of other funds to pay  
2 such costs on an interim basis, bond and money market conditions and compliance with federal and State  
3 laws and regulations. Accordingly, the County reasonably expects to reimburse costs of the Project (as  
4 described herein) with proceeds of the Bonds, such Bonds to be issued by the County in the maximum  
5 principal amount of \$18,000,000.

6 **Section 6.** This Act shall take effect sixty-one (61) days after its enactment.

**Appendix A**

**PROJECT**

**Project Description**

S6245 NITROGEN LOADING REDUCTION  
A project to reduce Nitrogen loading from the  
Little Patuxent Sewer Basin

**Amount to be  
Borrowed**

**\$18,000,000**

**TOTAL AMOUNT TO BE BORROWED:**

**\$18,000,000**