

Subject: Expedited Bill 17-19, Bond Authorization – Stormwater Management	
Purpose: To introduce agenda item – no vote expected	
Analyst: Gene Smith, Legislative Analyst	Committee: None
Keywords: #Bondauthority	

DESCRIPTION/ISSUE

Expedited Bill 17-19, Bond Authorization – Stormwater Management, sponsored by Council President at the request of the County Executive, increases the County’s authority to issue special limited obligation bonds for stormwater management facilities or other related projects (see ©1-8). The Executive requested this bill to implement projects in the Conservation of Natural Resources of the FY19-24 amended Capital Improvements Program (see ©9-12). **A public hearing followed by action is tentatively scheduled for June 25, 2019 at 1:30 PM.**

This report contains:

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Expedited Bill No. 17-19
Concerning: Bond Authorization -
Stormwater Management
Revised: 6/6/2019 Draft No. 1
Introduced: June 18, 2019
Expires: December 18, 2020
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN ACT to:

authorize the County to issue special limited obligation bonds for the purposes of financing the planning, design, acquisition, and construction and maintenance of stormwater management facilities and other related projects

By adding to Laws of Montgomery County 2019

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>

The County Council for Montgomery County, Maryland approves the following Act:

①

1 **Sec. 1. The following is added to the Laws of Montgomery County:**

2 (a) The County may at any time and from time to time sell in one or more
3 series an aggregate principal amount not to exceed \$51,000,000 in special
4 limited obligation bonds (the "Bonds") authorized under the authority of
5 Section 10-203 of the Local Government Article of the Annotated Code
6 of Maryland (2013 Replacement Volume and 2018 Supplement), as
7 amended, Title 4 ("Title 4") of the Environmental Article of the
8 Annotated Code of Maryland (2013 Replacement Volume and 2018
9 Supplement), as amended, Sections 20-47 through 20-54 of Chapter 20
10 of the Montgomery County Code, as amended (the "County Code"), and
11 Chapter 19 of the County Code for the purposes of financing the
12 planning, design, acquisition, and construction and maintenance of
13 stormwater management facilities and other related projects in
14 connection with such facilities as such are included in and approved in
15 the County's Capital Improvements Program.

16 (b) The Bonds are special limited obligations of the County and must not
17 constitute a pledge of the full faith and credit and unlimited taxing power
18 of the County. The Bonds must be payable by the County from its water
19 quality protection charges authorized to be imposed on certain real
20 property in the County under Title 4 and Section 19-35 of the County
21 Code (the "Water Quality Protection Charge") and deposited into the
22 stormwater management fund (the "Fund"). To pay the interest and
23 redeem and pay the Bonds authorized by this Act as they respectively
24 mature, the County must determine and impose the Water Quality
25 Protection Charge in each and every fiscal year in rate and amount
26 sufficient to provide for the payment, when due, of the principal of and

27 interest on all Bonds maturing in each such fiscal year and all other costs
28 and expenses authorized for payment and determined to be paid by the
29 County from the Fund in that fiscal year under Chapter 19 of the County
30 Code. In the event the amounts derived from the Water Quality
31 Protection Charge imposed in any fiscal year proves inadequate for the
32 above purposes, additional charges must be imposed in the succeeding
33 fiscal year to make up any deficiency. The County may apply to the
34 payment of the principal of and interest on the Bonds and such other costs
35 and expenses any other funds legally available and deposited to the Fund
36 and, to the extent such funds are received or are receivable in any fiscal
37 year, the amount of the Water Quality Protection Charge required to be
38 imposed may be reduced accordingly.

39 (c) The Bonds may be sold for a price at or above par, plus accrued interest
40 to the date of delivery. The County Executive of the County (the "County
41 Executive") may sell the Bonds through a public sale or through a private
42 (negotiated) sale without solicitation of competitive bids, as the County
43 Executive by executive order ("Executive Order"), upon consultation
44 with the Director of Finance finds to be in the best interests of the County.
45 Any sale of the Bonds by private negotiation is hereby determined to be
46 for the County's best interest.

47 (d) Subject to and in accordance with the provisions of this Act, the County
48 Executive may determine by Executive Order, for each and every Bond
49 or series of Bonds issued under this Act, all matters relating to the sale,
50 issuance, delivery and payment of the Bonds, including (without
51 limitation) the purposes for which such Bonds are issued, the date or dates
52 of sale of the Bonds, the designation of the Bonds, the date of delivery of

53 the Bonds, the authorized denominations for the Bonds, the redemption
54 provisions, if any, pertaining to the Bonds, the manner of authentication
55 and numbering of the Bonds, the date from which interest on the Bonds
56 shall accrue, the rate or rates of interest borne by the Bonds or the method
57 of determining the same, the interest payment and maturity dates of the
58 Bonds, including provisions for mandatory sinking fund redemption of
59 any term bonds, the forms of the Bonds, whether the Bonds are to be
60 issued in book-entry form and all matters incident to the issuance of
61 Bonds in book-entry form and the provisions for the registration of
62 Bonds. The execution and delivery of Bonds is conclusive evidence of
63 the approval of all terms and provisions of such Bonds on behalf of the
64 County.

- 65 (e) Except as otherwise provided in an Executive Order, the Bonds must be
66 executed in the name of the County and on its behalf by the County
67 Executive, whose signature may be by facsimile, an original or facsimile
68 of the official seal of the County must be imprinted or otherwise
69 reproduced thereon, attested by the manual or facsimile signature of the
70 Director of Finance, and authenticated by the manual or facsimile
71 signature of the Paying Agent/Registrar or any designated signer.
- 72 (f) The County hereby covenants that if the County Executive determines to
73 issue the Bonds as tax-exempt bonds or bonds that must comply with
74 regulations regarding tax-exempt bonds, it will take, or refrain from
75 taking, any and all actions necessary to comply with the provisions of
76 Section 103 and Sections 141 through 150, inclusive, of the Internal
77 Revenue Code of 1986 (the "Code"), applicable to the Bonds issued as
78 tax-exempt bonds in order to preserve the excludability of the interest on

79 the Bonds from gross income for Federal income tax purposes. Without
80 limiting the generality of the preceding sentence:

81 (1) the County must not use or permit the use of any of the proceeds
82 of the Bonds issued as tax-exempt bonds in such manner as would
83 cause the interest on the Bonds to be included in gross income for
84 Federal income tax purposes;

85 (2) the County must regulate the investment of the proceeds of the
86 Bonds so as not to cause any of the Bonds to be an “arbitrage bond”
87 within the meaning of Section 148 of the Code and the Income Tax
88 Regulations thereunder;

89 (3) the County must, if and to the extent necessary, make periodic
90 determinations of the rebate amount and timely pay any rebate
91 amount, or installment thereof, to the United States of America;

92 (4) the County must prepare and timely file Internal Revenue Service
93 Form 8038-G, Information Return for Tax-Exempt Governmental
94 Obligations, or any successor or additional form required by the
95 Internal Revenue Service, and;

96 (5) the County Executive or a designee of the County Executive must
97 prepare and execute and certify any other document that may be
98 required in order to assure compliance with the applicable
99 provisions of Section 103 and Sections 141 through 150, inclusive,
100 of the Code, and the Income Tax Regulations thereunder.

101 (g) In connection with the issuance of any Bonds under this Act, the County
102 may enter into one or more agreements as the County Executive deems
103 necessary or appropriate for the issuance, sale, delivery or security of
104 such Bonds, which may include (without limitation):

- 105 (1) underwriting, purchase or placement agreements for Bonds sold at
106 private (negotiated) sale in accordance with the provisions of this
107 Act;
- 108 (2) trust agreements and escrow deposit agreements with commercial
109 banks or trust companies providing for the issuance and security
110 of such Bonds;
- 111 (3) any dealer, remarketing or similar agreements providing for the
112 placement or remarketing of such Bonds;
- 113 (4) agreements providing for any credit or liquidity facilities
114 supporting any Bonds;
- 115 (5) agreements with commercial banks or trust companies providing
116 for the deposit of proceeds of any Bonds;
- 117 (6) agreements with fiscal agents providing for the issuance of Bonds,
118 their authentication, registration or payment or other similar
119 services; and
- 120 (7) continuing disclosure agreements, including any such agreements
121 required to enable the underwriters of any Bonds to meet the
122 requirements of paragraph (b)(5) of Rule 15c2-12 promulgated by
123 the United States Securities and Exchange Commission. Each
124 such agreement shall be in such form as determined by the County
125 Executive by Executive Order.
- 126 (h) The County Executive, the Chief Administrative Officer of the County,
127 the County Attorney, the Director of Finance of the County and the Clerk
128 of the Council, for and on behalf of the County, may do all things, execute
129 all instruments, authorize the preparation and distribution of a
130 preliminary and a final official statement or other disclosure document

131 and otherwise take all such action as may be necessary, proper or
132 expedient to carry out the authority conferred by this Act.

133 (i) The issuance and sale of any bonds under this Act are exempt from the
134 provisions of Sections 19-205 and 19-206 of the Local Government
135 Article of the Annotated Code of Maryland, as amended.

136 **Sec. 2. Expedited Effective Date.**

137 The Council declares that this legislation is necessary for the immediate
138 protection of the public interest. This Act takes effect on the date on which it
139 becomes law.

140 *Approved:*

141

Nancy Navarro, President, County Council

Date

142 *Approved:*

143

Marc Elrich, County Executive

Date

144 *This is a correct copy of Council action.*

145

Megan Davey Limarzi, Esq.
Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 17-19

Bond Authorization – Stormwater Management

- DESCRIPTION:** Legislation to authorize the issuance of special obligation bonds in an amount not to exceed \$51,000,000. The Bonds will be Special Limited Obligations of the County secured by the Water Quality Protection Charge and will not constitute a pledge of the full faith and credit and unlimited taxing power of the County.
- PROBLEM:** An Ordinance is necessary to establish the level of debt that may be secured by the Water Quality Protection Charge authorized under Section 19-35 of Chapter 19 of the County Code and to authorize actions by the County Executive to execute documents related to the issuance and delivery of Water Quality Protection Charge Revenue Bonds (the “Bonds”).
- GOALS AND OBJECTIVES:** The goal is to provide new bond authorization for the planning, design, acquisition and construction of stormwater management facilities and other related projects. The proceeds will fund projects in the Conservation of Natural Resources category that were approved for long-term financing in the FY19-24 Amended Capital Improvements Program. The County will issue Bonds to the Maryland Water Quality Financing Administration (MWQFA) to secure the repayment by the County of one or more loans from the MWQFA Water Quality/Drinking Water State Revolving Fund.
- COORDINATION:** This bill is new legislation that does not duplicate or overlap existing law.
- FISCAL IMPACT:** Future annual debt service costs are incurred at the time the bonds are sold and are included in the Approved Operating Budget and Annual Appropriations for Debt Service.
- EVALUATION:** N/A
- EXPERIENCE ELSEWHERE:** N/A
- SOURCE OF INFORMATION:** Michael Coveyou, Acting Director of Finance, 240-777-8870
- APPLICATION WITHIN MUNICIPALITIES:** To be researched.
- PENALTIES:** None



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

June 5, 2019

TO: Nancy Navarro, President
Montgomery County Council

FROM: Marc Elrich *Marc Elrich*
County Executive

SUBJECT: Legislation Related to Special Limited Obligation Bonds Financed by the Water Quality Protection Charge

I am transmitting the attached bill to authorize the County to issue Special Limited Obligation Bonds for the purpose of financing the planning, design, acquisition and construction of stormwater management facilities and other related projects. The bill was prepared by the County's bond counsel, McKennon Shelton & Henn LLP and reviewed by the Department of Finance. An Ordinance is necessary to establish the level of debt that may be secured by the Water Quality Protection Charge authorized under Section 19-35 of Chapter 19 of the County Code and to authorize actions by the County Executive to execute documents related to the issuance and delivery of Water Quality Protection Charge Revenue Bonds (the "Bonds").

The Bonds will be sold in one or more series in an aggregate amount not to exceed \$51,000,000. This amount will supplement \$10.665 million in remaining authority from the \$95 million previously approved under Bill 12-12E – "Bond Authorization- Stormwater Management." The proceeds will fund projects in the Conservation of Natural Resources category that were approved for long-term financing in the FY19-24 Amended Capital Improvements Program. The County will issue Bonds to the Maryland Water Quality Financing Administration (MWQFA) to secure the repayment by the County of one or more loans from the MWQFA Water Quality/Drinking Water State Revolving Fund. The Bonds will be special limited obligations of the County, secured by the Water Quality Protection Charge (WQPC) and will not constitute a pledge of the full faith and credit and unlimited taxing power of the County. The WQPC will be set annually at a rate to provide for payment of debt service on the Bonds and other costs of the stormwater management program authorized to be paid from the Charge.

I recommend that this bill be enacted on an expedited basis in order to comply with the need for a summer 2019 bond issue.

If you have any questions, please contact Michael Coveyou at extension 7-8870.

ME: jc

Attachments

cc: Adam Ortiz, Director, DEP
Michael Coveyou, Acting Director, DOF

Fiscal Impact Statement
Bill XX-XX – Bond Authorization – Stormwater Management

1. Legislative Summary:

This legislation would authorize the County Executive to issue up to \$51,000,000 in Special Obligation Bonds (Bonds) for approved stormwater management capital projects. The current bond authorization of \$95,000,000 is insufficient to cover current planning, design, acquisition and construction costs of stormwater management facilities and other related projects.

The County will issue Bonds to the Maryland Water Quality Financing Administration (MWQFA) to secure the repayment by the County of one or more loans from the MWQFA Water Quality/Drinking Water State Revolving Fund. The Bonds will be Special Limited Obligations of the County secured by the Water Quality Protection Charge and will not constitute a pledge of the full faith and credit and unlimited taxing power of the County.

An Ordinance is necessary to establish the level of debt that may be secured by the Water Quality Protection Charge authorized under Section 19-35 of Chapter 19 of the County Code and to authorize actions by the County Executive to execute documents related to the issuance and delivery of Water Quality Protection Charge Revenue Bonds (the “Bonds”).

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The County revenue and expenditure estimates will be determined by the specific amount of bonds issued and the amount of debt service incorporated into the annual operating budget for stormwater management. This bill only authorizes the issuance of the Special Limited Obligation Bonds.

Estimated debt service per \$1,000,000 in MWQFA loan funds secured by the Bond is \$63,046 annually.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The revenue and expenditure estimates for the next 6 fiscal years will be determined by the specific amount of bonds issued and the amount of debt service incorporated into the annual operating budgets for stormwater management. This bill only authorizes the issuance of the Special Limited Obligation Bonds.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable

5. An estimate of expenditures related to County’s information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable

7. An estimate of the staff time needed to implement the bill.

Not applicable

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable

9. An estimate of costs when an additional appropriation is needed.

Additional appropriation for debt service will be determined by the amount of bonds issued by the County. Future annual debt service costs are incurred at the time the bonds are actually sold and are included in the Approved Operating Budget and Annual Appropriations for Debt Service.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable

12. If a bill is likely to have no fiscal impact, why that is the case.

The bill is to provide new, additional bond authorization equal to the approved appropriation level which will be financed from future bond issues, therefore there is no direct impact.

13. Other fiscal impacts or comments.

The Water Quality Protection Charge (WQPC) will be set annually at a rate to provide for the payment of debt service on the bonds and other costs of the stormwater management program authorized to be paid from the WQPC.

14. The following contributed to and concurred with this analysis:

Lydia Lan and Jacqueline Carter, Department of Finance

Trevor Lobaugh, Office of Management and Budget

Richard Madaleno

Richard Madaleno, Director
Office of Management and Budget

5/30/19
Date

**Economic Impact Statement
Bill XX-XX, Bond Authorization**

Background:

This legislation would increase the County's bond authorization not to exceed \$51,000,000 for approved stormwater management capital projects. There is insufficient bond authorization for planning, design, acquisition and construction of stormwater management facilities and other related projects.

Legislation authorizes the issuance of special obligation bonds in an amount not to exceed \$51,000,000. The Bonds will be Special Limited Obligations of the County secured by the Water Quality Protection Charge and will not constitute a pledge of the full faith and credit and unlimited taxing power of the County.

An Ordinance is necessary to establish the level of debt that may be secured by the Water Quality Protection Charge authorized under Section 19-35 of Chapter 19 of the County Code and to authorize actions by the County Executive to execute documents related to the issuance and delivery of Water Quality Protection Charge Revenue Bonds (the "Bonds").

1. The sources of information, assumptions, and methodologies used.

There are no sources of information, assumptions and methodologies used in the preparation of the economic impact statement.

2. A description of any variable that could affect the economic impact estimates.

There are no variables that could affect the economic impact estimates

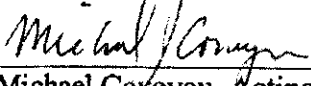
3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

Bill XX-XX increases the County's bond authorization thereby providing sufficient authority to fully cover the increased appropriation level approved by the County Council. Since this Bill only provides authorization to issue bonds, the legislation has no economic impact.

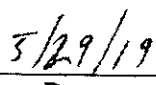
4. If a Bill is likely to have no economic impact, why is that the case?

Bill XX-XX would have no economic impact, please see paragraph 3.

5. The following contributed to or concurred with this analysis: David Platt, Jacqueline Carter, and Rob Hagedoorn, Finance



Michael Coxeyou, Acting Director
Department of Finance



Date