

MEMORANDUM

April 5, 2012

TO: County Council

FROM: Jacob Sesker, Senior Legislative Analyst 

SUBJECT: **Public Hearing:** Expedited Bill 12-12, Bond Authorization – Stormwater Management

Expedited Bill 12-12, Bond Authorization Stormwater Management, sponsored by the Council President at the request of the County Executive, was introduced on March 20, 2012. Action is tentatively scheduled for April 17.

Bill 12-12 authorizes the County to issue special limited obligation bonds for the purposes of financing the planning, design, acquisition, and construction of stormwater management facilities and other related projects.

This packet contains

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Expedited Bill No. 12-12
Concerning: Bond Authorization –
Stormwater Management
Revised: 3/9/2012 Draft No. 1
Introduced: March 20, 2012
Expires: September 20, 2013
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to authorize the County to issue special limited obligation bonds to finance the planning, design, acquisition, and construction of stormwater management facilities and related projects.

By adding to the Laws of Montgomery County 2012

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>

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

**Sec. 1. The following is added to the Laws of Montgomery County
2012:**

- (a) The County may at any time and from time to time sell in one or more series an aggregate principal amount not to exceed \$95,000,000 in special limited obligation bonds (the "Bonds") authorized under the authority of Section 5(P)(2) of Article 25A of the Maryland Code Title 4 of the Environmental Article of the Maryland Code ("Title 4"), as amended and Chapter 19 of the County Code, as amended to finance the planning, design, acquisition, and construction of stormwater management facilities and related projects as approved in the County's Capital Improvements Program.
- (b) The Bonds are special limited obligations of the County and must not constitute a pledge of the full faith and credit and unlimited taxing power of the County. The Bonds must be payable by the County from its water quality protection charges authorized to be imposed on certain real property in the County under Title 4 and Section 19-35 of the County Code (the "Water Quality Protection Charge") and deposited into the stormwater management fund (the "Fund"). To pay the interest and redeem and pay the Bonds authorized by this Act as they respectively mature, the County must impose the Water Quality Protection Charge in each fiscal year in an amount sufficient to provide for the payment, when due, of the principal of and interest on all Bonds maturing in each fiscal year and all other costs and expenses authorized for payment and determined to be paid by the County from the Fund in that fiscal year under Chapter 19. If the revenue derived from the Water Quality Protection Charge imposed in any fiscal year proves inadequate for the listed purposes, additional charges must be

imposed in the next fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on the Bonds and such other costs and expenses any other funds legally available and deposited to the Fund. To the extent such funds are received or are receivable in any fiscal year, the amount of the Water Quality Protection Charge required to be imposed may be reduced accordingly.

(c) The Bonds may be sold for a price at or above par, plus accrued interest to the date of delivery. The County Executive may sell the Bonds through a public sale or through a private (negotiated) sale without solicitation of competitive bids, as the County Executive by executive order after consulting the Director of Finance finds to be in the best interests of the County. Any sale of the Bonds by private negotiation is for the County's best interest.

(d) In accordance with this Act, the County Executive may determine by Executive Order, for each Bond or series of Bonds issued under this Act, all matters relating to the sale, issuance, delivery and payment of the Bonds, including the purposes for which the Bonds are issued, the date or dates of sale of the Bonds, the designation of the Bonds, the date of delivery of the Bonds, the authorized denominations for the Bonds, the redemption provisions, if any, pertaining to the Bonds, the manner of authentication and numbering of the Bonds, the date from which interest on the Bonds accrues, the rate or rates of interest borne by the Bonds or the method of determining the rates, the interest payment and maturity dates of the Bonds, including provisions for mandatory sinking fund redemption of any term bonds, the forms of the Bonds, whether the Bonds are to be issued in book-entry form and

all matters incident to the issuance of Bonds in book-entry form, and the provisions for the registration of Bonds. The execution and delivery of Bonds is conclusive evidence of the approval of all terms and provisions of the Bonds on behalf of the County.

(e) Except as otherwise provided in an Executive Order, the Bonds must be executed in the name of the County and on its behalf by the County Executive, whose signature may be by facsimile; an original or facsimile of the official seal of the County must be imprinted or otherwise reproduced thereon, attested by the manual or facsimile signature of the Director of Finance, and authenticated by the manual or facsimile signature of the Paying Agent/Registrar or any designated signer.

(f) The County hereby covenants that if the County Executive decides to issue the Bonds as tax-exempt bonds or bonds that must comply with regulations regarding tax-exempt bonds, the County will take, or refrain from taking, all actions necessary to comply with Section 103 and Sections 141 through 150 of the Internal Revenue Code, applicable to the Bonds issued as tax-exempt bonds to preserve the status of the interest on the Bonds as excluded from gross income for Federal income tax purposes. Without limiting the generality of the covenant in the preceding sentence: (1) the County must not use or permit the use of any proceeds of the Bonds issued as tax-exempt bonds or any funds of the County in a manner as would cause the interest on the Bonds to be included in gross income for Federal income tax purposes; (2) the County must regulate the investment of the proceeds of the Bonds so as not to cause any of the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Internal

Revenue Code and the Income Tax Regulations thereunder; (3) the County must, if and to the extent necessary, make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the United States of America; (4) the County must prepare and timely file Internal Revenue Service Form 8038-G and 8038-B, Information Return for Tax-Exempt Governmental Obligations; and (5) the County Executive or the Executive designee must prepare and execute and certify any other document required to assure compliance with the applicable provisions of Section 103 and Sections 141 through 150 of the Internal Revenue Code, and the Income Tax Regulations thereunder.

The County Executive may take any actions necessary or desirable to assure that any Bonds authorized by this Act are allowed a tax credit, that the County is entitled to a subsidy from the United States or any agency or instrumentality thereof with respect to such Bonds or the interest payable thereon, or the interest thereon is entitled to any other available benefits under the Internal Revenue Code, as amended.

- (g) In connection with the issuance of any Bonds under this Act, the County may enter into one or more agreements as the County Executive finds necessary or appropriate for the issuance, sale, delivery or security of the Bonds, which may include: (1) underwriting, purchase or placement agreements for Bonds sold at private (negotiated) sale in accordance with this Act; (2) trust agreements with commercial banks or trust companies for the issuance and security of the Bonds; (3) any dealer, remarketing or similar agreements for the placement or remarketing of the Bonds; (4) agreements for any credit or liquidity facilities supporting any Bonds;

(5) agreements with commercial banks or trust companies for the deposit of proceeds of any Bonds; (6) agreements with fiscal agents for the issuance of Bonds, their authentication, registration or payment or other similar services; and (7) continuing disclosure agreements, including any agreement required to enable the underwriters of any Bonds to meet the requirements of paragraph (b)(5) of Rule 15c2-12 issued by the Securities and Exchange Commission. Each such agreement must take the form determined by the County Executive by Executive Order.

(h) The County Executive, the Chief Administrative Officer, the County Attorney, the Director of Finance and the Clerk of the Council, on behalf of the County, may execute all instruments and otherwise take any action necessary to carry out the authority conferred by this Act.

(i) The issuance and sale of any bonds under this Act are exempt from the provisions of Article 31, Sections 9, 10, and 11 of the Maryland Code.

Sec. 2. Expedited Effective Date.

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

Approved:

Roger Berliner, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 12-12

Bond Authorization – Stormwater Management

DESCRIPTION:	Legislation to authorize the issuance of special obligation bonds in an amount not to exceed \$95,000,000. 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 bonds will be sold in one or more series in an aggregate amount not to exceed \$95,000,000 as currently approved for projects in the FY11-16 Amended Capital Improvements Program to be funded by Water Quality Protection Charge bonds.
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 actually sold, and are included in the Approved Operating Budget and Annual Appropriations for Debt Service.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Jacob Sesker, Senior Legislative Analyst, 240-777-7942
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Not applicable



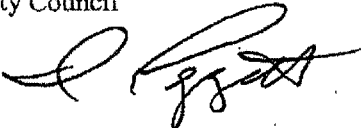
OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

March 2, 2012

TO: Roger Berliner, President
Montgomery County Council

FROM: Isiah Leggett 
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, approved by the County Attorney for legal sufficiency 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 \$95,000,000 as currently approved for projects in the FY11-16 Amended Capital Improvements Program to be funded by Water Quality Protection Charge (WQPC) Revenue Bonds. The Bonds will be special limited obligations of the County secured by the WQPC and will not constitute a pledge of the full faith and credit and unlimited taxing power of the County. The Water Quality Protection Charge 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 late spring 2012 bond issue.

If you have any questions please contact Joseph F. Beach at extension 7-8870.

IL:jc

Attachments

cc: Robert Hoyt, Director, DEP
Jennifer Hughes, Director, OMB



ROCKVILLE, MARYLAND

MEMORANDUM

April 3, 2012

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Joseph F. Beach, Director, Department of Finance

SUBJECT: Expedited Bill 12-12 Bond Authorization Stormwater Management

Attached please find the fiscal and economic impact statements for the above referenced legislation.

JAH:mz

c: Kathleen Boucher, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Alex Espinosa, Office of Management and Budget
Robert Hoyt, Director, Department of Environmental Protection
Steven Shofar, Department of Environmental Protection
Craig Carson, Department of Environmental Protection
Gladys Balderrama, Department of Environmental Protection
Jacqueline Carter, Department of Finance
Michael Coveyou, Department of Finance
Mary Beck, Office of Management and Budget
Ed Piesen, Office of Management and Budget
Monica Zaleski, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Expedited Council Bill 12-12 - Bond Authorization – Stormwater Management

1. Legislative Summary

This is an expedited act to authorize the County to issue Special Limited Obligation Bonds to finance the planning, design, acquisition, and construction of stormwater management facilities and related projects in the County. The Bonds, not to exceed \$95,000,000, 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.

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.

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. There are no personnel costs associated with this bill.

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

Any future revenue and expenditures resulting from the enactment of this bill and the amount of bonds issued by the County will be addressed during the annual budget process. This bill only authorizes the issuance of the Special Limited Obligation Bonds; the amount of debt service is not yet known.

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

No additional staff time is required from the Department of Environmental Protection. The bill will be implemented by the Department of Finance.

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

There is no additional staff responsibilities associated with this bill. See item #6.

8. 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.

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

Not applicable.

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

Not applicable.

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

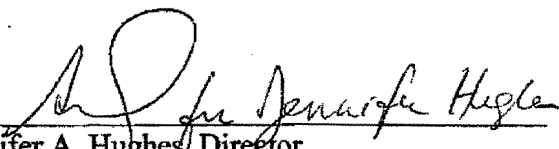
This bill only authorizes the issuance of the Special Limited Obligation Bonds. The fiscal impact will be determined by the specific amount of bonds issued and the amount of debt service incorporated into the annual operating budget.

12. Other fiscal impacts or comments.

There are no other fiscal impacts resulting from this bill.

13. The following contributed to and concurred with this analysis: (Enter name and department).

Robert Hoyt, Director, Department of Environmental Protection
Steven Shofar, Department of Environmental Protection
Craig Carson, Department of Environmental Protection
Gladys Balderrama, Department of Environmental Protection
Jacqueline Carter, Department of Finance
Michael Coveyou, Department of Finance
Mary Beck, Office of Management and Budget
Ed Piesen, Office of Management and Budget
Monica Zaleski, Office of Management and Budget
Naeem Mia, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

4/4/12
Date

**Economic Impact Statement
Expedited Council Bill 12-12
Bond Authorization – Stormwater Management**

Background:

This is an expedited act to authorize the County to issue special limited obligation bonds to finance the planning, design, acquisition, and construction of stormwater management facilities and related projects in the County. The Bonds, not to exceed \$95,000,000, 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.

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

Not applicable—this is a Bond Authorization and as such has no economic impact.

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

Not applicable—this is a Bond Authorization and as such has no economic impact.

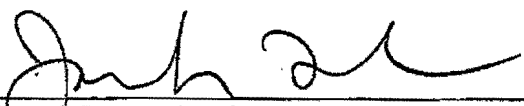
3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

Not applicable—this is a Bond Authorization and as such has no economic impact.

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

Not applicable—this is a Bond Authorization and as such has no economic impact.

5. The following contributed to and concurred with this analysis: David Platt and Mike Coveyou, Finance



Joseph F. Beach, Director
Department of Finance

3/28/12
Date