

# Courthouse News

A publication  
of the  
Maryland Association  
of Counties

Volume 30 Number 8

April 11, 2008



## Message from the President *Session's Over/ The Work Continues*

Session is now behind us and we can all be proud of our efforts. In reality, Session began in November with the Special Session, and kept MACo running hard until midnight on April 7. It felt more like a continuous sprint than a marathon. I

know the MACo staff never caught its breath.

MACo has been visible and engaged. We made a productive contribution to the State resolving its structural deficit by supporting the Governor's plan in both Sessions. The solution requires counties to digest some pain. But that participation contributed to a true long-term solution, meaning security for future State distributions.

That future security remains contingent on the slots referendum passing in November. It is clear that if the referendum fails, county distributions will be at risk to address a resulting State budget shortfall of \$600 million. The most discussed and visible target would be shifting teacher retirement payment responsibility to the counties, whose funding would require an estimated 11-cent average property tax hike.

Your Board discussed the dismal reality surely to result from the referendum's failure at its March 26 meeting. MACo's prior support for slots during both the Ehrlich and O'Malley Administrations in the context of the Association's adopted policy was scrutinized. That policy called for a full resolution of the structural deficit, requiring increased State tax revenues in addition to slots revenues. Having seen the MACo slots policy honored, the Board voted for MACo to be actively engaged in the effort to secure passage of the referendum. I made sure to immediately present that decision to the full Legislative Committee for discussion.

Your leadership has focused on enhancing MACo's visibility recently, perhaps most notably with press conferences convened to showcase MACo's support for the Administration's budget solution and school construction and renovation funding. Press conferences

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## 2009 Legislative Initiative Ideas Due June 6

(see page 12)

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## Important Dates!

August 13-16, 2008

Summer Conference, Ocean City

October 22-24, 2008

Adm./Atty. Fall Conference, Annapolis

January 7-9, 2009

Winter Conference, Hyatt, Cambridge

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showcasing county official interest in maintaining school funding through the passage of the slots referendum are also anticipated. Of course, as in the past, the MACo leadership does recognize and respect some members philosophical opposition to slots and would not expect their participation.

Too often we are told that county officials fail to express their support for tough decisions made by State officials that benefit counties. A most notable example is the tough votes many General Assembly members took to raise taxes when cuts to county funding were presented as an alternative.

In response, MACo is planning a thank you press conference and luncheon on April 24 in Annapolis, commensurate with the next bill signing ceremony. Our intent is to make sure the General Assembly and Administration feel that there is a true partnership with MACo.

Partnerships certainly predominated our work with the O'Malley administration this past Session. We collaborated on Administration bills relating to BRAC, the Chesapeake Bay 2010 Fund, green buildings, transit oriented development, the budget reconciliation, critical areas, and speed cameras. Following his commitment, Governor O'Malley's staff sought MACo's input and worked in good faith to accommodate county concerns.

In fact, MACo staff reports there was not a single instance when a departmental bill or position raised a county concern that promoted a MACo request for the Governor's Legislative Office to intervene. This most encouraging situation surely results from the departments honoring the directive of the Governor's Policy and Legislative Director, Joe Bryce, to work out bill issues with MACo before they come before the General Assembly.

Insofar as working through issues, a high point of the Session was the collaboration enabling the passage of the critical areas bill. Under Wicomico County Executive Rick Pollitt's leadership, a MACo workgroup identified issues of true county concern in the bill. MACo staff worked tirelessly with the Governor's Deputy Legislative Officer, Lisa Jackson, and the Critical Areas Commission Chair, Margaret McHale, to resolve MACo concerns. The focus on being reasonable and flexible enabled the passage of a bill to which not only MACo, but also the development and environmental communities, agreed. MACo is confident these

deliberations established the necessary foundation for future collaboration on tough issues.

The single Administration bill that failed was the speed camera bill on which MACo, MML, MDOT, and the Governor's Office committed so much energy. The bill passed both the House and Senate with differences that were resolved the last day of Session. Unfortunately, the agreed-to bill was not called up for a Senate vote in sufficient time for it to be enacted. That was certainly Session's biggest disappointment, but at least there is a format for next Session's bill.

MACo 1<sup>st</sup> Vice President Wilson Parran did a magnificent job leading the Legislative Committee. The Committee responsibly tackled some tough issues, always in a collegial manner. This collegiality and mutual respect is the attitude that makes MACo an effective organization. Equally important was our success in maintaining our commitment to being non-partisan. Unlike General Assembly deliberations, our Legislative Committee deliberations always focused on policy and not politics.

Aside from the failure of the speed camera bill, MACo was successful with its other three Session initiatives- a format for addressing OPEB challenges, county budget security, and school construction and renovation funding. With the typical county match, the State's \$333 million appropriation for school construction and renovation will fund over \$1 billion in projects.

There were many instances where county elected officials were actively involved, providing important "county seat" credibility to MACo advocacy. This elected official involvement is a key to MACo's Annapolis success. It gives MACo's talented and hard-working staff the ability to show that county elected officials are engaged in, and support, the MACo position.

Jan Gardner is representing our interests aggressively on the Growth Task Force. It was fortunate she had the opportunity to raise our concerns with Governor O'Malley when he visited with us at the Sine Die luncheon. Efforts to denigrate county growth management fail to recognize the delicate balance that county officials must find in this most difficult area of governance. MACo is committed to making sure that the commendable efforts of county governments are highlighted, as growth management will certainly be a hot topic for the 2009 Session.

MACo staff began planning the Summer Conference

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program during Session and is now in full Summer Conference planning mode. A great program is emerging and, with our larger exhibit hall selling out earlier than ever before, there can be no doubt both Exhibit Halls will again be filled. By deserved reputation, our conferences, particularly the Summer Conference, still remain Maryland's best and the "place to be."

Please be on the lookout for the Summer Conference registration materials and program, plan to attend and encourage your fellow elected officials and professional staff to also attend. The conference program, and on line registration will soon be available at [www.mdcounties.org](http://www.mdcounties.org) and will also be emailed to you. The conference education program itself offers the most compelling justification for broad county participation.

David and I will begin our county roadtrips soon. I look forward to visiting every county, as MACo wants to hear your voice.

Good luck with your budgets!

Best Regards,



Jim Smith  
President

## New Board Members for MACo and NACo

Montgomery County Executive Isiah Leggett and Prince George's County Council member Ingrid Turner have just been named as the new members of the MACo Board of Directors at their March 26 meeting in Annapolis. They replace the late Marilyn Praisner of Montgomery County and now State Senator David Harrington of Prince George's County.

County Executive Leggett was elected to a four-year term as Montgomery County Executive in 2006. He previously served four terms as an At-Large Member during which time he served as Council President, and Vice-President. He holds four higher education degrees, including a law degree from Howard University School of Law. He also served as a Captain in the United States Army and as a White House Fellow. He served as a Professor of Law at the Howard University Law School

from 1975 - 2006. He ran the day-to-day operations of the Law School as its Assistant Dean from 1979 - 1986.

County Executive Leggett lives in Burtonsville with his wife, Catherine, who is Vice President for Human Resources of the International City Management Association. His daughter, Yaminah, a bio-medical researcher, and her family live in Silver Spring. Ike is a member of the Resurrection Baptist Church of Olney.

Council Member Turner was elected in 2006 to represent District 4 in Prince George's County. She is a graduate of the United States Naval Academy, with an MBA from Golden Gate University and a Juris Doctorate from The Catholic University of America, Columbus School of Law.

Council Member Turner is a retired Commander in the Judge Advocate General's Corps, United States Navy having served her country for 20 years. Council Member Turner was the first African American selected for the Navy's Fully Funded Law Education Program, and the second African American female to obtain the rank of Commander as an active duty judge advocate.

She has lived in Prince George's County all her life and is active in such organizations as the Ivy Community Charities of Prince George's County, and the Iota Gamma Omega Chapter of Alpha Kappa Alpha Sorority. She serves as an Adjunct Professor of Health Policy, George Washington University.

**MACo 1<sup>st</sup> Vice President** and Calvert County Commission President Wilson Parran has been named to replace Marilyn Praisner on the National Association of Counties Board of Directors as the Maryland representative.

Commission President Parran is serving his second term on the Calvert County Board of Commissioners. He was reelected as County Commissioner in 2006. In addition to serving as MACo 1<sup>st</sup> Vice-President, he is the current chairman of the MACo Legislative Committee.

Contact: *Ellen Clarke*

### Governor Addresses Legislative Committee

Governor Martin O'Malley addressed MACo's Legislative Committee at its final session meeting on March 26. The Governor discussed the budget, speed cameras, and land use concerns with the Committee.

Calvert County Commission President Wilson Parran introducing the Governor as a "friend of MACo," noted, "The open door policy [between MACo and the Administration] is unprecedented."

Governor O'Malley thanked MACo for supporting the budget actions taken during the 2007 Special Session. He stated that without the Special Session, the State "would be looking at a \$2.4 billion hole." He cautioned that recent revenue write-downs have required the State to cut another \$320 million from the budget. He also said that the Administration and General Assembly were exploring options to repeal the sales tax on computer services, a tax passed during the 2007 Special Session. Repealing the tax would require the State to find \$200 million in either new cuts or revenues. The Governor confirmed that he preferred new funding rather than cutting the counties.

The Governor reiterated that he included \$333 million in his FY 2009 budget for school construction funding. Charles County Commission Vice President Edith Patterson asked the Governor if the State has considered creating prototype school designs that could be repeatedly used by the locals, rather than having to contract separately with an architect for each new school building. The Governor noted that while there was some resistance from the architects, the State would examine the issue after the Session ended.

The Governor thanked MACo for its support of the Administration's critical area legislation (HB 1253/SB 844). "I appreciate your willingness to suspend your disbelief and help with the legislation," the Governor commented. He noted that the legislation would create more certainty for homeowners, developers, and local officials.

When discussing speed camera legislation (HB 364/SB 269), the Governor stated, "[My Administration] added this to our initiatives when counties and municipalities said it was important." Baltimore City Council Member Rikki Spector raised concerns that the Senate bill took money earned from local speed camera

programs and placed it in the State General Fund. She expressed preference for the House version, where the money remained at the local level but could only be used for related public safety purposes, such as pedestrian safety programs. Governor O'Malley responded that he did not support the bill becoming a "State revenue grab."

Frederick County Commission President Jan Gardner presented concerns about the Task Force on the Future for Growth and Development recommending a State land use plan that would reduce local land use authority. She urged a State-local partnership on the issue. The Governor responded that he wanted to have a well-informed plan that had value.

MACo Executive Director David Bliden suggested that local comprehensive plans be used as an aggregate to create the State plan. He noted that local plans are created as part of a multi-year process and that there is more citizen accountability at the local level. Governor O'Malley responded that he hoped the State plan would be an outgrowth of the 2006 Reality Check Plus growth visioning exercise. Commissioner Gardner countered that while Reality Check was a useful exercise, it did not compare with local planning efforts.

The Governor concluded his remarks by urging MACo and county officials to contact him if issues arise between the State government and the counties. "We will always try to be responsive," he promised.

*Contact: Leslie Knapp Jr.*

### Comptroller & Treasurer Address Legislative Committee

At the March 26 meeting of the MACo Legislative Committee, Comptroller Peter Franchot and Treasurer Nancy Kopp were invited speakers to share their thoughts with the assembled county officials. Both reflected on several policy issues from the legislative sessions, and expressed support for their county relationships.

Comptroller Franchot spoke about MACo's "great leadership," and complimented the "great work" by the organization in representing counties. He recited some of the "shared goals" he supports, including "school construction, protecting the environment, investing in

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[our] infrastructure, and a sound fiscal footing.”

He then closed by offering “most of all, thank you” to the county officials, and extending his own continued commitment of support. “If I myself, or my office, can be of help – call me personally,” he remarked, and concluded, “You always have a place at my table.”

Treasurer Kopp followed the Comptroller, and echoed his praise for the organization’s “hard work and support.” She followed by noting, “I am, and you know, tremendously interested in school construction,” as she argued that it “lays the foundation” for many public endeavors. “It’s also a very good place to put one-time money,” she noted, referencing the State’s fiscal uncertainties.

She commented on MACo’s legislation to enable flexible local investment of postemployment benefits funding, and mentioned the State’s own “blue ribbon commission... looking at both benefits and financing... a whole range.” Discussing the general issue with postemployment benefits, she indicated, “serious decisions have to be made.”

She also commented on the Local Government Investment Pool, an enterprise managed by her office, indicating it “has done quite well,” and she affirmed that the pool is “not in risky stuff” and largely unaffected by recent troubles in financial markets. “If there is any way we can improve it,” she invited, “we are delighted to do that” and welcomed input from county officials on the joint program.

Contact: Michael Sanderson

### Slots Referendum Supported

During its March 26 meeting the MACo Board of Directors voted for “MACo to be actively involved in the effort to pass the video lottery terminal referendum consistent with MACo’s adopted policy on video lottery terminals.” The referenced policy was first adopted by the Legislative Committee during the Ehrlich Administration and was later re-affirmed. It was incorporated into MACo’s broader principles for resolving the State’s structural deficit and is as follows:

*The Maryland Association of Counties (MACo) recognizes the nexus between the State’s fiscal stability and its counties’ fiscal health. In this regard, it is obvious that a responsible State budget reconciliation must include a significant*

*revenue component.*

*Income from video lottery terminals could be an acceptable long-term State revenue source, were such a program responsibly crafted. But, anticipated revenue from video lottery terminals must be immediately supplemented with other new, permanent, and substantial State revenues.*

*A responsible video lottery terminal program must provide continuing fair and full compensation to the host subdivisions for impact expenses and respect local land use authority. In addition, a responsible State budget reconciliation must envision a workable plan to expeditiously resolve the State’s ongoing budget imbalance.*

*This State plan must not include structural or permanent adjustments to the existing fiscal relationship between the State and its counties, since recent responsible county revenue raising actions deny counties additional revenue capacity and counties are still reconciling the structural and permanent adjustments of the early 1990’s. In addition, the plan must not include any diversion of county-generated revenues.*

The Board reviewed the policy and concluded all the contingencies upon which MACo’s support for video lottery terminals continued had been addressed during the Special Session. Not surprisingly, the vulnerability of county distributions, particularly State funding of teacher retirement payments, was a topic of significant conversation. President Jim Smith presented the position to the Legislative Committee for discussion immediately after the Board meeting.

Contact: David S. Bliden

### State Budget Lean for Counties, But No Deep New Cuts

The State of Maryland’s FY 2009 budget plan includes fairly lean funding for county governments and related county-supported entities – but the latest round of decisions by the General Assembly did not substantially add to those shortfalls. These fiscal adjustments, including the eventual (in the last days of the Session) repeal of the sales tax on computer services, did not lead to dramatic reductions in local

distributions to education, public safety, or direct aid to local governments.

Preliminary figures from the Department of Legislative Services indicate that total direct distributions to local government functions will increase by a nominal 0.5% from FY 2008 to FY 2009 – or an increase of 1.4% if the effect of “payments on behalf” is included. That increase includes meaningful increases to primary and secondary education (a \$130 million increase, or 2.8%) and community colleges (\$19 million, or 8.8%) – but an overall decline in funding of \$120 million in direct aid to local governments.

The drop in local government distribution arises primarily from:

- The elimination of the \$30.6 million in electric utility grants, part of the 2007 Special Session’s reconciliation legislation

- A dramatic drop-off in Program Open Space (POS) distributions, due to slowing transfer tax revenues, a funding of FY 2007 under-attainment, and a \$21 million diversion of local POS funds to fund State parks operations

- A \$17 million loss in Highway User Revenues, essentially reflecting the lost local share of titling taxes due to the granting of a “trade-in allowance” on vehicle purchases (also passed during the 2007 Special Session)

SB 46, the legislation effecting the repeal of the “computer tax,” also directs the Governor to bring \$50 million in additional FY 2009 budget cuts before the Board of Public Works by July. However, while the Board of Public Works has authority to reduce appropriations within the annual operating budget, it does not have the authority to override statutory distributions, including many areas affecting county governments.

More detailed reports and summary documents of the State budget and reconciliation legislation are available at the General Assembly’s website:

<http://mlis.state.md.us/>

The 90-Day Report, published shortly after Session by the Department of Legislative Services, provides an overview of issues and legislation contemplated during the legislative session. It includes a substantial summary of fiscal effects and budget decisions, including distributions to each county government.

Contact: *Michael Sanderson*

## \$333 Million Included for School Construction

The General Assembly provided for \$327.4 million in general obligation bonds for public school construction in the FY 2009 capital budget (SB 150). Combined with the \$5.9 million in FY 2008 unspent school construction money that reverted to the Public School Construction Program’s Contingency Fund, the total amount of available school funding in FY 2009 is \$333.3 million. This amount accounts for approximately one-third of the State’s capital budget.

Governor Martin O’Malley and the General Assembly’s strong support to continue to make school construction and renovation funding a high priority was a MACo 2008 legislative initiative. MACo supported Governor O’Malley’s initial inclusion of \$333 million in his budget and its subsequent adoption by the General Assembly.

Contact: *Leslie Knapp Jr.*

## Speed Camera Bills Fail

The MACo initiative speed camera bills, HB 364/SB 269, passed their respective Houses, but with differing amendments that required them to go to a conference committee. For a full summary of the differences between the House and Senate bills, see the March 24 issue of the *Courthouse News*.

SB 269 came out of conference committee with the key differences resolved in favor of local governments, but the Senate did not consider the conference committee report until there were only several minutes left before Sine Die. The Senate tabled its discussion and both bills died as the 2008 Session ended. The MACo initiative bills were sponsored by the Administration.

Contact: *Leslie Knapp Jr.*

## Critical Areas Bill Passes

The General Assembly passed HB 1253, a bill that implements significant changes to Maryland’s Critical Area Law. MACo and a broad coalition, including MML, the environmental community, the builders, and the Maryland Chamber of Commerce supported the final version of HB 1253. For a full history and summary of

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the bill's key provisions as it passed the House, please see the March 24 issue of the *Courthouse News*. SB 844, the cross-file to HB 1253, was not moved by the Senate.

The Senate made additional changes to HB 1253. Key changes include:

- The bill increased the size of the buffer from 100 feet to 300 feet for properties located within a Resource Conservation Area (RCA) that applied for subdivision or site plan approval and would remain a RCA. The Senate limited the buffer expansion to 200 feet.

- The bill provided a right of entry by a local authority to identify or investigate a violation or potential violation of the Critical Area law if the authority had reasonable cause to believe a violation had or would occur. The Senate increased the evidentiary standard from "reasonable cause" to "probable cause". A local program can still establish its own right of entry standards.

- The bill replaces the existing impervious surface standard with a new "total lot coverage" calculation, which limits how much development can take place on property within a critical area. The bill included decks as part of the total lot coverage calculation. The Senate treated slatted decks as pervious surfaces and exempted them from the total lot coverage calculation.

- The Senate added an additional factor that the Critical Area Commission must consider when reviewing map amendments or refinements involving the use of growth allocation in a New Intensely Developed Area - whether the project would have a demonstrable economic benefit to the area.

- The bill required the use of nonstructural "soft" shoreline erosion control and stabilization measures, such as living shorelines or marsh plantings. A person could still use structural "hard" shoreline erosion control and stabilization measures, such as bulkheads or riprap, if the Maryland Department of the Environment (MDE) granted a waiver. The Senate required MDE to map and designate specific areas where structural erosion control and stabilization measures may be automatically used.

*Contact: Leslie Knapp Jr.*

## 2010 Bay Trust Fund Modified

The General Assembly passed HB 369/SB 213, which modified the uses of the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund, codified the Governor's BayStat program, and created a new Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund. Trust Fund moneys are to be distributed for nonpoint source pollution control projects to: (1) local governments, forest and soil conservation districts, academic institutions, and nonprofit organizations through grants; (2) the Nonpoint Source Fund; (3) the Maryland Agricultural Cost-Share Program; and (4) the Woodland Incentive Fund. The General Assembly included \$25 million for the Trust Fund in the FY 2009 budget.

MACo consistently supported the creation of the Trust Fund (formerly known as the "Green Fund") with amendments. The Trust Fund was created during the 2007 Special Session and HB 369/SB 213 provide details for its administration. MACo was successful in securing language stating, "It is the intent of the General Assembly that, when possible, moneys in the Trust Fund shall be granted to local governments and other political subdivisions for agricultural, forestry, stream and wetland restoration, and urban and suburban stormwater non point source pollution control projects."

*Contact: Leslie Knapp Jr.*

## BRAC Legislation Passes in Final Day of Session

Senate Bill 206, an administration bill MACo supported, cleared its final hurdles in the House of Delegates in the final days of Session, and was passed on Monday April 7. The bill would authorize local governments to create BRAC Revitalization and Incentive Zones, and to negotiate payments in lieu of taxes (PILOTs) with privately owned facilities on federally owned land.

During the late stages of the Session, the final debates concerned the source and nature of funding that the State would offer to local governments with an approved BRAC zone. The final version of the bill provides that the State funding would be subject to annual appropriations in the State budget, not to exceed \$5 million per year.

House leaders, in discussing the legislation informally indicated, "If the program is a great success, that limit could be amended down the road." The State funding would direct a calculated amount of additional State taxes to the host local government to be used for infrastructure related to the BRAC-driven growth in and around the BRAC zone.

The PILOT section of the bill deals with property operated by a private contractor on a military site, that under current Maryland law is subject to property taxes only on the improvements (and not the land itself). Extended negotiations between contractors and local jurisdictions resolved the framework of the PILOT negotiation, and required that local governments negotiate a PILOT "in good faith" to be eligible to receive approval for any BRAC Zone application under the bill.

Contact: *Michael Sanderson*

## Local Inmate Health Care Bill Passes

MACo supported HB 359/SB 225, which would reduce the costs counties pay for local inmate health care. The bills provide that the cost for any health care services provided to a local inmate outside of a local correctional facility would be set at the Medicaid rate, unless counties chose to negotiate a higher rate.

The bill provides immediate benefits for counties that pay directly for health care services. There will also be future benefits for counties who provide health care services through a contractor, as these counties may use the benefit of the lower rates as an incentive for better terms when a contract is renegotiated.

Despite a last-minute challenge by representatives for emergency room doctors and medical specialists, both bills passed their respective Houses with MACo-supported amendments. HB 359 passed the General Assembly.

Contact: *Leslie Knapp Jr.*

## County and Nonprofit Association Standing Bills Fail

MACo successfully opposed three bills, HB 1341/SB 596 and SB 687, that would have granted standing rights to nonprofit and community associations. MACo has traditionally opposed association-standing bills as they would overturn well-established standing precedents and likely increase the amount and cost of litigation for local governments. MACo did attempt to negotiate a compromise with the bills' leading proponent, the Falls Road Community Association, but was unable to reach a mutually acceptable agreement.

The House Judiciary Committee gave an unfavorable report to HB 1341, followed by the Senate Judicial Proceedings Committee's unfavorable report on SB 596. SB 687 was withdrawn and did not receive a bill hearing.

MACo also initially opposed HB 246, which would have granted any taxpayer in a charter county standing to challenge a board of appeals decision or a zoning action of a local legislative body. MACo took a "no position" after MACo was successful in amending the bill so it instead authorized a charter county to expand standing to include a person who was not aggrieved by an appeals decision or zoning action, subject to terms and conditions established by the county. The amended bill passed the House and came to the Senate floor but was not voted before Session ended.

Contact: *Leslie Knapp Jr.*

## Lawsuit Notice Requirement Extension Fails

As introduced, House Bill 16 proposed to increase the notice required for bringing a lawsuit against a local government from six months to one year. During the House hearing a MACo panel argued the extension would promote more lawsuits, compromising already strained local government budgets.

In addition, panelists noted that the bill did not further parity with the law controlling actions against the State, the Maryland Tort Claims Act (MTCA), that although having a one-year notice requirement, does not have the "good cause" escape clause provided in the law controlling actions against local governments, the

Local Government Tort Claims Act (LGTC). (See *Courthouse News* January 28)

The House passed HB 16 with an amendment eliminating the “good cause” escape, purportedly to promote parity with the State Act. MACo’s Legislative Committee voted to oppose the amended bill, citing continuing concerns about increased lawsuits. Commensurate with this decision there was conversation about the offsetting benefit of an absolute limit resulting from the elimination of the “good cause” escape.

At the March 22 hearing before the Senate Judicial Proceedings Committee (JPR), local government opposition was presented by a panel comprised of MACo Executive Director David Bliden, Baltimore City Solicitors Office Attorney David Ralph, and MML Government Relations Director Candace Donoho. Aside from the bill sponsor, Delegate Michael Smigiel, only the Maryland Trial Lawyers Association offered testimony supporting the bill.

Delegate Smigiel suggested the bill would not have a fiscal impact on local governments. “It does not take a weatherman to know what way the wind blows,” responded Mr. Bliden, citing the Trial Lawyers Association well recognized commitment to promoting plaintiff lawyers’ interests. He continued, arguing the bill did not promote the suggested parity as it failed to include the attorney fee limitations and restriction on paying claims promised on gross negligence or malicious conduct found in the State Act.

Mr. Ralph highlighted the great difference between State and local government functions, noting the greater local government lawsuit exposure due to more involvement in citizen services, such as trash collection and road maintenance. Ms. Donoho raised the unique burdens on small towns.

“It’s not a big deal,” argued JPR Chairman Brian Frosh. Mr. Bliden responded that the fiscal impacts of expanding local government liability are always a concern.

While the bill did pass the Committee, MACo and MML made clear their intention to offer a floor amendment imposing the attorney fee limit found in the State Act. A vote on the bill was delayed on two occasions and it was never brought to a vote by the full Senate before Session’s end.

*Contact: David S. Bliden*

## Lyme Disease Presumption Fails

HB 855/SB 743 would have granted law enforcement officers who regularly work in an outdoor wooded environment a presumption of compensability in workers compensation claims when they contract Lyme disease. This presumption currently applies to Maryland Department of Natural Resources police.

MACo opposed the bill, arguing that Lyme disease is not unique to law enforcement and could result from unrelated activities, such as hiking. Its sponsor withdrew HB 855 and the Senate Finance Committee rejected SB 743. A local bill granting the presumption to Maryland National Capital Park and Planning Commission Park Police did pass (HB 933).

*Contact: Leslie Knapp Jr.*

## Broad Tax Sale Legislation To Take Effect for 2008 Sales

Senate Bill 854 and House Bill 1211, two cross filed bills to reform several components of county tax sales, were both passed and should be signed on April 24. As emergency bills, they will take effect upon being signed in law, hence affecting the conduct of 2008 county tax sales.

MACo was among several stakeholders negotiating the bills’ provisions, and agreed that the final version of the bill would accomplish several goals:

- (1) To make it easier for collectors to remove properties with only modest overdue amounts from the tax sale process;
- (2) To give property owners additional notices, providing greater opportunity for owners or mortgagees to redeem the property before a foreclosure action is begun; and
- (3) To limit the attorney fees and expenses that would be borne by a property redeeming once the foreclosure process has begun.

While most of the bill’s provisions are essentially matters between a tax sale certificate holder and property owner, the bill does require that the county collector provide a notice to the property owner following the conduct of the tax sale to detail the

options for redemption, and the timetable for various additional charges that would apply. This practice is already used in many counties, but the legislation would standardize that notice and require it take a specific form that includes certain information.

*Contact: Michael Sanderson*

## Homestead Credit Application Will Stay

Several bills introduced this legislative session would have repealed, or substantially undermined, the newly enacted application program for the Homestead Property tax Credit program. At the end of the session, however, none of the bills passed, and the application program will continue.

In 2007, MACo supported the legislation creating the application process, citing concerns with fraud and error in the current coding of many properties currently receiving the Homestead credit, which is intended to be available only to “owner occupied” dwellings, i.e. principal residences. Many documented cases of second homes, vacation homes, and investment properties being errantly coded as owner occupied have been identified on a case by case basis, but the application process is the most effective tool available to address abuse.

The Maryland Senate passed SB 239, but that bill and similar bills introduced in the House met with a measured reception from the House Committee on Ways and Means. Extended discussion about the need to identify errant credit claims focused that Committee’s attention on improving the notice provided to taxpayers, and the administration of the application process.

Under current law, property owners will be notified of the application process along with assessment notices – one third of Maryland taxpayers received theirs in January of 2008. The program will not result in lost tax credits until a several-year cycle of notification and verification has elapsed, in FY 2013.

*Contact: Michael Sanderson*

## Compulsory High School Attendance Bill Resisted

The General Assembly rejected a bill that would have increased the high school dropout age from 16 to 17. As originally introduced, SB 436 would have increased the dropout age from 16 to 18, at a cost of \$85 million to the State with an unknown increase in costs to counties. The Senate lowered the age to 17 and made its passage contingent upon the inclusion of \$45 million in the FY 2009 State budget.

The House Ways and Means Committee heard the bill but took no action. MACo opposed the bill in the House. The Maryland Association of Boards of Education supported the bill with an amendment that would have removed the contingency requirement. Legislation to increase the mandatory attendance age was previously introduced in the 2005 and 2007 sessions and will likely be introduced again next year. About half of the states maintain a dropout age of 16.

*Contact: Leslie Knapp Jr.*

## Military Pre-Kindergarten Bill Fails

HB 1319/SB 912 would have required local school systems to offer mandatory pre-kindergarten (pre-k) to children of certain military families. Under current law, local school systems offer pre-k services to 4-year olds who are economically disadvantaged. These pre-k students are not counted under State aid formulas, leaving counties to subsidize 100% of their cost.

MACo opposed the bills as originally introduced, arguing that while the intent of the bills was laudable, the bills constituted an unfunded mandate on county governments at a time when both the State and the counties are struggling financially. Under current law, approximately 30% of Maryland military families already qualify for free pre-k.

MACo withdrew its opposition to the House bill after the Ways and Means Committee amended the bill so that it only applied to children of military families whose income was at or below 300% of poverty level and was contingent upon the State providing annual funding to cover the costs of the additional children. The counties would continue to be financially responsible for

children of military families who qualify as economically disadvantaged under the current law. HB 1319 passed the House but the Senate took no action on either bill.

Contact: *Leslie Knapp Jr.*

### Community College MOE Amendment Resisted

MACo joined the Maryland Association of Community Colleges to successfully resist an amendment by the House Appropriations Committee that would have dramatically altered the purpose and scope of HB 649. Originally, HB 649 was a personnel bill for Baltimore City Community College and had no county impact. However, the proposed amendment would have established a local maintenance of effort requirement for all community colleges. MACo objected to the amendment, arguing that such a major shift in education funding policy deserved a hearing and more deliberation than a floor vote.

Due to MACo and community college opposition, the bill was special ordered multiple times on the House floor. However, it was not considered before the Session ended.

Contact: *Leslie Knapp Jr.*

### Growth Task Force Hears From Local Governments

The Task Force on the Future for Growth and Development heard presentations by county and municipal officials and planners at its March 24 meeting. The presenters highlighted local planning concerns and challenges and presented an overview of the local comprehensive planning and zoning process.

HB 1141 of 2006 created the Task Force and HB 773 of 2007 further expanded its charge and role. The Task Force is charged with examining both the State and local roles in land use planning and Smart Growth implementation. Frederick County Commission President Jan Gardner and Worcester County Planning Director Sandy Coyman are the MACo representatives on the Task Force.

The Task Force is required to report its findings to

the Governor and General Assembly by December 1. Its findings will likely play a key role in shaping any Smart Growth and land use reform legislation during the 2009 session.

County panelists discussed various components of land use and planning. Mr. Coyman provided an overview of growth and planning issues in Worcester County. Howard County Director of Planning and Zoning Marsha McLaughlin discussed the local planning process, emphasizing the time and resources it takes to create and update a county comprehensive plan. Prince George's County Director of Planning Fern Piret explained the subsequent zoning process that implements a comprehensive plan. Commission President Gardener discussed the citizen participation and interaction that occurs during both the planning and zoning processes. Charles County Attorney Roger Fink discussed the legal history of Maryland's local planning and zoning laws and the litigation challenges faced by local governments on land use issues.

MACo Associate Director Leslie Knapp Jr. summarized the preliminary results of a MACo Smart Growth survey circulated to county planners. The survey was created with input from the Maryland Department of Planning and the National Center for Smart Growth. The survey measured county growth trends and perceptions, understanding of Smart Growth principles by citizens and elected officials, the level of implementation of Smart Growth in each county, impediments to implementing Smart Growth, the relationship between local and State planning and environmental laws, and local use of geographic information systems (GIS). Final survey results will be available at the end of April.

Secretary of Planning Rich Hall presented his perception of the current status of Smart Growth. As part of his argument for reforming Smart Growth, he maintained, "folks want us to move forward." When assessing its performance, he noted, "the data is not encouraging," and cited charts that show more acres have been developed outside of Priority Funding Areas than within. He stated that, "People aren't too wrapped up into who does it - they don't care whether it's the State or the locals making the decisions."

Contact: *Leslie Knapp, Jr.*

### 2009 Legislative Initiative Ideas Due June 6

MACo is seeking legislative initiative ideas for the 2009 Session of the Maryland General Assembly. Each year MACo proposes up to four legislative initiatives for State action. Recent years' initiatives have secured heightened consideration of unfunded mandates, increased accountability in school board budgets, obtained more circuit court funding, and stabilized and increased local health funding.

MACo's Legislative Planning Committee will consider initiative proposals. The Committee will meet throughout the summer and fall to develop initiatives for consideration by the full Legislative Committee.

County officials are invited to submit a description of initiative ideas by Friday, June 6 to MACo Legislative Director Michael Sanderson at [msanderson@mdcounties.org](mailto:msanderson@mdcounties.org)

Contact: Michael Sanderson

### Briefly

*Collaboration for the Federal Manager: Engaging Citizens in Government Decision Making*

Open to county and state government officials and federal officials, this training, sponsored by the ABA Section of Dispute Resolution, Government Committee in cooperation with the Federal Interagency ADR Working Group (IADRWG) will be held May 6 8:30 am to 12:30 pm at the Federal Energy Regulatory Commission, 888 1st ST NE, Washington, DC 20426. Would your agency/government benefit from using more effective processes to engage the public on regulatory issues? Collaborative processes enable the government to work with individuals, other agencies and organizations from outside your agency to resolve regulatory issues – especially those that could end up in litigation. This training will help you learn more about these processes, and how to evaluate whether they are appropriate in a particular situation. The first half will introduce you to the range of collaborative processes available and explore when and how to use them. The second half of the morning program will allow you to interact with peers to analyze evaluate and address a hypothetical fact situation that might benefit from a collaborative process. The registration fee is \$40 (CLE credit applied for and beverage/light refreshments are

provided). Please allow extra time for security. The FERC building will open at 7:45 am. to clear all meeting participants in time. Enter the building through the entrance closest to 1<sup>st</sup> Street. For registration information, contact [dispute@staff.abanet.org](mailto:dispute@staff.abanet.org) or 202-662-1680.

*MEA Posts Its Draft Model Small Wind Zoning Ordinance for Public Comment*

To help facilitate the installation and construction of small wind projects throughout the State, MEA is developing a model small wind-zoning ordinance for counties and municipalities to voluntarily adopt. The draft, vetted through several wind energy experts from the Department of Energy, National Renewable Energy Laboratory, American Wind Energy Association, state agencies and counties, will be posted on MEA's website for public comment through April 30. MEA will review comments and post a final version on its website for counties and municipalities to use at their discretion. MEA will also help facilitate the process of the adopting the model zoning ordinance with those counties that express interest. Download the ordinance at <http://www.energy.state.md.us/DraftSmallWindZoningOrdinance.asp>. For more information, contact Crissy Godfrey, CEM, Program Manager, Renewable Energy, MEA at 410.260.7190.

### Job Openings

**DIRECTOR OF ECONOMIC DEVELOPMENT - CHARLES COUNTY** - The County has an annual budget of \$519 million with 700 full time employees. Excellent opportunity for an experienced professional to oversee and manage the County Economic Development Department, its staff of seven professionals, programs, partnerships, and client relationships. The Department has an annual budget of \$1.3 million, and includes the Tourism program, which manages regional and national marketing efforts and development of new tourism amenities, such as a local minor league baseball stadium and resort hotel. The Director of Economic Development will focus on existing business retention, military base modernization, technology park development, new business recruitment and location packaging, and community development, including infrastructure projects, waterfront developments, and enhanced permitting processing. The Director will collaborate business development efforts with County and Regional

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Certification (EIT) or four years additional engineering experience, and a valid driver's license required. Position is open until filled; for best consideration apply by **April 25, 2008**. Starting salary range: \$60,231 to \$78,801. Starting salary based on qualifications. Charles County offers excellent benefits including a defined benefit pension plan, deferred compensation, generous leave and health care programs. The Charles County Employee Pension Plan honors portability of eligible prior Maryland State and local government service in other defined benefit pension plans. Apply on line at [www.charlescounty.org](http://www.charlescounty.org), or submit application and resume to the Human Resources Department, Charles County Government Building, POB 2150, La Plata, MD 20646. EOE; Minority and female applicants are encouraged to apply. EOE

### **ENGINEER IV – DEPT. OF PLANNING AND GROWTH MANAGEMENT – CHARLES COUNTY -**

Seeking an Engineer to provide program management, policy development, and policy direction to staff. Responsible for the supervision of administrative and engineering staff, management of specialized engineering and construction projects in an assigned functional area including grading, storm drainage, storm water management, roads, water, sewer, and solid waste. Supervises engineering staff, develops and interprets engineering design and construction policies, develops and manages project budget, responds to inquiries from public, developers, engineers, landowners, and attorneys regarding procedures and compliance issues, represents the county on a regional or state-wide basis, and makes presentations before the County Commissioners and the public. Bachelor's Degree in Engineering and a Master's Degree in a related field (may substitute 4 years experience) and five years progressively responsible engineering experience or equivalent, ability to communicate effectively orally and in writing, and a valid driver's license required. Registration as a Maryland Professional Engineer (P.E.) required or eight years additional progressively responsible engineering experience. Salary Range: \$65,191 to \$105,305. Starting salary based on experience and qualifications. Position is open until filled; applications requested by April 14, 2008 for best consideration. Charles County offers excellent benefits, including a defined pension plan, deferred compensation, and generous leave and health care programs. The Charles Co. Employee Pension Plan honors portability of eligible prior MD State and local government service in other defined benefit pension

benefit pension plans. Apply on line at [www.charlescounty.org](http://www.charlescounty.org), or submit application and resume to the Human Resources Dept., Charles Co. Government Building, POB 2150, La Plata, MD 20646. Employment applications are available at the Charles County Government Building in the Dept. of Human Resources, La Plata, MD, at all local libraries, and the MD Dept. of Labor, Licensing and Regulation in Waldorf, MD. EOE

### **DEPUTY HEALTH OFFICER (MANAGER II) – DEPT. OF HEALTH AND HUMAN SERVICES - MONTGOMERY COUNTY -**

Requisition #3041 - \$70,632 - \$128,222. Job Summary Description: Employee will assist the physician health officer in the assessment of community health needs, setting priorities and encouraging the development of programs to fill the changing needs. Employee will act as the Health Officer in his/her absence. Duties include: overseeing programmatic management of the core public health functions of monitoring the health status to identify community health problems; diagnosing and investigating health problems and health hazards in the community including communicable disease control and prevention, environmental health, and emergency preparedness and response; informing, educating and empowering people about health issues (health promotion and disease prevention); mobilizing community partnerships to identify and solve health problems; developing policies and plans that support individual and community health efforts; enforcing laws and regulations that protect health and ensure safety; linking people to needed personal health services and assuring the provision of health care when otherwise unavailable; assuring a competent public health and personal health care workforce; evaluating effectiveness, accessibility, and quality of personal and population-based health services, and research for new insights and innovative solutions to health problems. As a manager/supervisor of unionized employees, this position has a responsibility for fostering a positive labor relations environment based on mutual trust, respect, and cooperation. Minimum Qualifications: Education: Graduation from an accredited college or university with a Bachelor's Degree. Experience: Seven (7) years of progressively responsible professional experience in public health, three (3) years of which were in a supervisory or executive capacity. Note: The term "executive" is further defined as a high echelon or high level position in an organization that is assigned technical research, management advisory services

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responsibilities, or policy-making duties and responsibilities that exerts considerable influence on organizational policy, plans, and operations through technical research, management advisory services, and/or policy-making duties and responsibilities (e.g., County positions at Grade 30 or above). Equivalency: An equivalent combination of education and experience may be substituted. Preferred Criteria: Resumes should include information specific to the preferred criteria listed: 1. Possession of a Masters degree in a public health related field or public administration; 2. Experience leading, planning, implementing and evaluating public health programs and services; 3. Experience supervising, planning and coordinating the work of public health professionals and staff; 4. Experience preparing large operating budgets and related justifications/defense; and 5. Experience resolving complex personnel and/or administrative issues. Preference will be given to applicants who possess ten (10) years of progressively responsible professional experience in public health, five (5) years of which were in supervisory or executive capacity. If selected for consideration for this position, you may be required to demonstrate and/or provide verification of your possession of the knowledge, skills, and abilities indicated in your submission. The selection process for this position will include an evaluation of core leadership competencies such as Customer Service Orientation; Commitment to Diversity; Communication and Persuasion Skills; Teamwork, Cooperation, and Collaboration; and Balanced Risk Taking and Innovation. To apply on-line, please visit our website at [www.montgomerycountymd.gov/careers](http://www.montgomerycountymd.gov/careers) then view job posting under Managerial/ Executive." You may apply online or submit your resume by COB April 17, 2008 to: Montgomery Co. Office of Human Resources, 101 Monroe Street, 7th Floor, Rockville, MD 20850. EOE. 240-777-5000. TTY: 240-777-5126.

**INTERNAL AUDITOR - WICOMICO COUNTY** - Fulltime Salary Negotiable DOQ. Full range of benefits. Duties: Responsible for audits of a variety of funds and programs; evaluates internal controls; prepares data for studies, reports, and recommendations; determines compliance with funding source requirements; reviews and evaluates programs and services. This position serves at the pleasure of the County Council Requirements: Graduation from a college or university with a Bachelor's degree in Accounting. Minimum of three years of audit experience. Required: Certified Public Accountant certification and experience in

financial management including internal auditing. Experience in forensic auditing a plus. An excellent opportunity to develop the internal audit function for a growing county government, reporting directly to the County Council. Working knowledge of Microsoft Office suite of PC programs. Capable of maintaining highly professional and confidential work atmosphere. Closing Date: Applications will be accepted until the position is filled. To Apply: 1. Obtain County Application and complete Job Description from: [www.wicomicocounty.org](http://www.wicomicocounty.org) (Click "Employment"). 2. Complete: (a) County Application; (b) Detailed Resume (describe how applicant qualifies for the position); and (c) a cover letter. 3. Send County Application, Detailed Resume and cover letter by mail: to: Wicomico County Council Office Attention: Council Administrator 125 N. Division Street Salisbury, MD 21803-0870. Questions may be directed to Matthew Creamer, Council Administrator: 410-548-4696 Fax: 410 548-7872 email: [mcreamer@wicomicocounty.org](mailto:mcreamer@wicomicocounty.org) EOE (R-5/08)

**ENGINEER II (SOLID WASTE) BUREAU OF SOLID WASTE MANAGEMENT, DEPT. OF PUBLIC WORKS, BALTIMORE COUNTY** - Min. Qualifications: Bachelor's Degree in Engineering and two years engineering experience (Qualifying education may be substituted for experience) or P.E. license. Various and diverse office and field duties involving engineering, environmental monitoring, and regulatory compliance associated with operations and construction projects at one active sanitary landfill, as well as at closed landfills and other solid waste facilities. 35 hour work week. \$46,684 to \$58,032, with longevity steps to \$74,142. Open until filled. For more information about County benefits, or to obtain a job description and/or an application, visit: <http://www.baltimorecountymd.gov/Agencies/humanresources/jobs/index.html> Contact Stephen G. Lippy, P.E., DEE, 410-887-2009, or email [slippy@baltimorecountymd.gov](mailto:slippy@baltimorecountymd.gov) (r7/08)

**Legislative Committee  
Action Report**

*March 26, 2008*

**FINANCE AND ADMINISTRATION**

SB 760 - HOMESTEAD PROPERTY TAX – RESIDENCE OF HOMEOWNER'S FAMILY MEMBER (Senator Stone) (Budget and Taxation) – NO POSITION

**EDUCATION**

HB 503/ SB 955 - BRIAN MOORE STUDENT HEALTH AND FITNESS ACT OF MARYLAND (Delegate Walker, et al) (Ways and Means) (Senator Harrington) (Education Health and Environmental Affairs) – OPPOSE

HB 649 - BALTIMORE CITY COMMUNITY COLLEGE – PERSONNEL (Chair, Ways and Means Committee (By Request – Departmental – Baltimore City Community College)) (Ways and Means) – OPPOSE

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B 436 - EDUCATION – AGE OF COMPULSORY ATTENDANCE – EXEMPTIONS (Senator Pugh, et al) (Education, Health, and Environmental Affairs) – OPPOSE

**ENVIRONMENT**

HB 581/ SB 831 - ENVIRONMENT – BAY RESTORATION FUND – AUTHORIZED USES OF FUND (Delegate Costa) (Environmental Matters) (Senator Colburn) (Education Health and Environmental Affairs) – SUPPORT

**GOVERNMENT LIABILITY & COURTS**

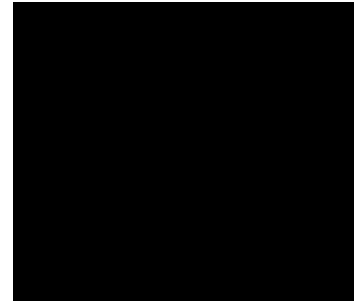
HB 16 - LOCAL GOVERNMENT TORT CLAIMS ACT – NOTICE (Delegate Smigiel) (Judiciary) – OPPOSE

**PLANNING & ZONING**

HB 246 - CHARTER COUNTIES – LAND USE APPEALS – STANDING (Delegates Bobo and V. Clagett) (Environmental Matters) – NO POSITION  
PUBLIC SAFETY & CORRECTIONS

HB 6/ SB 76 - CRIMINAL PROCEDURE – CUSTODIAL INTERROGATION – ELECTRONIC RECORDATION (Delegate Anderson, et al) (Judiciary) (Senator Conway, et al) (Judicial Proceeding) – NO POSITION

HB 108 - PUBLIC SAFETY – ELECTRONIC WEAPONS – PROHIBITION (Delegate Branch, et al) (Judiciary) - OPPOSE



**Annual Winter Conference**

**January 7-9, 2009**

***Hyatt Regency Chesapeake Hotel***  
**Cambridge - Dorchester County**

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*Courthouse News is published monthly May through December & weekly during Session. Email articles to [eclarke@mdcounties.org](mailto:eclarke@mdcounties.org)*