



BILL NO.: House Bill 70
TITLE: Bay Restoration Fund – Expanded Use of Funds
POSITION: **SUPPORT**
DATE: February 3, 2010
COMMITTEE: Environmental Matters
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The Maryland Association of Counties (MACo) **SUPPORTS** the concept of House Bill 70, which seeks to maximize the use of monies in the Bay Restoration Fund in light of unanticipated cost increases. As drafted, HB 70 provides that monies in the Bay Restoration Fund may be used as a source of revenue or security for the payment of principal and interest on bonds issued by a local government to finance eligible costs of enhanced nutrient removal (ENR) at wastewater treatment plants (WWTPs), with the approval of the Water Quality Financing Administration. While the bill's language is flawed, MACo supports the intent of HB 70.

One of the key purposes of the Fund is to provide assistance to the State's 67 major publicly owned WWTPs to upgrade to ENR technology. The original 2004 cost estimate to upgrade the WWTPs was \$750 million to \$1 billion. However, the estimate has been upgraded to \$1.54 billion, in part because of higher than anticipated debt service. State revenue bonds supported by the Fund are considered State tax-supported debt, which has limited the terms of the bonds that may be issued to 15 years, based on the Maryland Constitution.

The Bay Restoration Advisory Committee determined that one potential method to address the issue is to allow Fund revenue to make debt service payments on bonds issued by local governments. Locally issued bonds are not considered State tax-supported debt and may have longer repayment terms (up to 30 years), thus reducing annual debt service costs.

HB 70 attempted to implement the Advisory Committee's recommendation, but as explained by the bill's fiscal note, the State Treasurer's Office has advised, and the Department of Legislative Services concurs, that any debt supported by a pledge of Fund monies is likely to be considered State tax-supported debt and would be subject to the 15-year repayment term. This assessment renders the bill, as currently drafted, ineffective.

If the bill can be amended to accomplish its intended purpose, MACo would recommend the Committee issue a **FAVORABLE** report on HB 70.