



BILL NO.: Senate Bill 911
TITLE: Underground Facilities – Damage Prevention
POSITION: **OPPOSE**
DATE: March 9, 2010
COMMITTEE: Finance
CONTACT: Andrea Mansfield

The Maryland Association of Counties (MACo) **OPPOSES** SB 911. This bill would expand the role of Miss Utility to provide greater oversight of the marking of utilities and the enforcement of damage prevention laws. A proposed new entity, the Maryland Underground Facilities Damage Prevention Authority, would enforce these laws and have the authority to assess civil penalties for a violation. The entity would also educate the public of the importance of marking underground utilities before digging. MACo opposes this bill as it removes local marking fee authority, imposes new mandates, and empowers a new unaccountable entity with broad powers.

MACo's paramount concern is the removal of language authorizing local governments to be reimbursed for costs associated with the marking of underground facilities. Local aid has been significantly reduced in recent years and the budget plan for FY 2011 carries over more than \$400 million in cuts to local government from the prior year. The majority of this reduction, \$340 million, comes from Highway User Revenues, used for local transportation and public works operations.

While only a few jurisdictions currently collect a marking fee, the current statute gives flexibility to local jurisdictions to seek reimbursement to sustain operations. Considering these difficult economic times, MACo opposes any action to eliminate local revenue raising authority.

Further, the bill eliminates the revenue source, while asking local governments to take on additional responsibilities. SB 911 would require local governments to mark storm drains, which are currently exempt, and to provide plans and/or markings for a new "designer ticket." These new requirements, requiring significant additional resources, are being proposed at a time when jurisdictions do not have the needed resources to comply. Recent funding reductions have resulted in 400 employee layoffs, furloughs, and counties dipping into "rainy day" funds and balances.

While some storm drains are easily found because of their size and the location of manhole covers, local governments with older developments may not have location records. This is further complicated as storm drains are made of concrete which makes them sometimes difficult to locate. Although SB 911 delays the marking of storm drains until January 1, 2012; MACo is concerned that local governments do not have the needed resources, especially given that the bill eliminates their ability to be reimbursed for associated costs.

The “designer ticket” provisions may also pose challenges for small jurisdictions. Although 15 business days is provided for owner-members to comply, jurisdictions with a small staff may find it difficult to meet this requirement.

Lastly, MACo is concerned with the creation of the Maryland Underground Facilities Damage Prevention Authority (Authority). The industry claims that the creation of this entity conforms to the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006. However, MACo believes the elements of the 2006 Act could easily be met without establishing a bureaucratic body that would have the power to assess civil penalties and filing fees on public entities. The enforcement of damage prevention laws could easily be performed by the utility owners and the Attorney General’s Office, as is currently the case. Creating the new authority without any provisions to fund its operational costs extends MACo’s concerns about the potential fee burdens on local government.

For these reasons, MACo **OPPOSES** SB 911 and requests that the Committee issue an **UNFAVORABLE REPORT**.