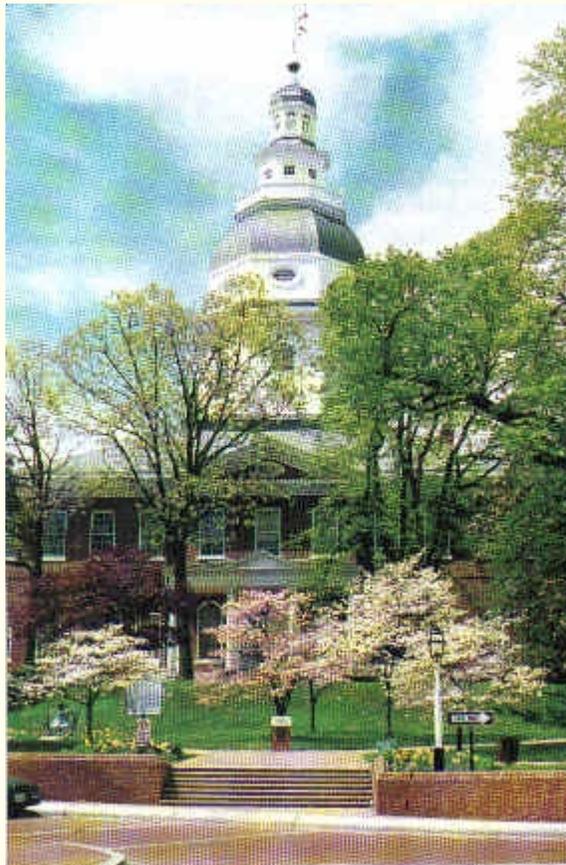


2008 Legislative Summary



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Introduction

These documents represent the Maryland Association of Counties' 2008 Legislative Summary. The purpose of this annual review is to provide general information on legislation enacted by the General Assembly and Governor during the legislative session. Only bills that were passed and signed into law are included in this review.

In addition, we have included material covering several significant issues from the legislative session with "Focus On" articles. We hope this material supplements the basic content of the legislative summary, and provides additional context for certain issues with significant county involvement.

Finally, we provide a page summarizing the efforts and results of MACo's Legislative Committee, representing every jurisdiction in Maryland and Baltimore City. Once again, the statistics reinforce MACo's effect on the legislative process, and the value of the prioritization efforts that the Legislative Committee undertakes.

If you have questions or comments on the material presented here, please contact Michael Sanderson at (410) 269-0043 or email him at msanderson@mdcounties.org

MACo 2008 Legislative Committee

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Worcester	Judith O. Boggs	Gerald T. Mason

2008 MACo Legislative Initiatives

* * * *

County Budget Security

The State government, by all accounts, faces a substantial structural fiscal imbalance, with forecasts envisioning an approaching imbalance of over one billion dollars. Reducing “local aid” to solve the State’s budget woes amounts to an unfair shift of burden - balancing the state budget on the backs of local tax increases, past and future. The State should maintain its commitments to public education, and to its modest share of costs for programs like police protection, local health departments, and targeted grant programs. Where state support has been abridged, a plan to reinstate appropriate support should be established.

* * * *

School Construction & Renovation Funding

The State has pledged an eight-year commitment to fund the wideranging school construction and renovation needs inventoried in the School Facilities Act of 2004. However, rapidly escalating construction costs and an increasing student population continue to make the funding for these needed projects a challenge. Recently, the State has laudably increased its school construction and renovation funding and the counties have responded by providing their significant share of funding for local projects. But seeing these needed projects to completion requires a continued commitment. MACo urges the General Assembly to continue to make school construction and renovation funding a high priority through the duration of the School Facilities Act commitment.

* * * *

Post-Employment Benefit Funding Options

With new GASB accounting rules requiring greater disclosure of long-term employee obligations (such as retiree health benefits and other post-employment benefits), governments are approaching this monumental fiscal challenge in a variety of ways. State law currently authorizes limited methods of use and investment of public funds - counties seek broader statutory authority to engage in some joint investment of their funding for these long-term purposes. Additionally, counties seek authority to ensure that county funding for related long-term liabilities for public school employees are properly accommodated within the funding structure for public schools.

* * * *

Traffic Speed Monitoring Technology - Enforcement Authority

Maryland’s use of traffic signal monitoring technology has been shown to reduce violations, accidents, and injuries at affected intersections. Similar technology in limited use in deterring speed violations on public roadways, with a goal of reducing dangerous speed violations, reducing accidents and injuries. Similar protections for special vehicle classes and/or non-owner operation may be implemented to recognize the nature of the enforcement technology. The State should authorize local governments to implement speed monitoring cameras, and issue civil citations to vehicle owners for registered violations.

Business Affairs

HB 684 (Chapter 514)

Task Force to Study Motor Vehicle Towing Practices

Bill Description: Establishes a Task Force to Study Motor Vehicle Towing Practices, staffed by the Motor Vehicle Administration. Among the Task Force's membership are representatives of MACo, selected and appointed by the association's President. Effective June 1, 2008 and terminates May 31, 2009.

SB 569 (Chapter 591)

Secondhand Precious Metal Object Dealers and Pawnbrokers - Definition of Dealer

Bill Description: Expands the definition of a secondhand precious metal object dealer to include an individual who is compensated for the sale or delivery of a secondhand precious metal object on behalf of an unlicensed party. Public safety concerns have centered on unlicensed and undocumented transactions for scrap metals providing an untoward incentive for vandalism and property theft.

SB 959 (Chapter 474)

Slot Machines - Definition

Bill Description: Alters the current prohibition on slot machines to include a machine that reads a game of chance and a machine that delivers a game of chance, with exceptions for certain machines that are not considered slot machines. The bill also allows existing licensed operations of specified electronic instant bingo machines to remain in operation until January 1, 2009. The bill does not apply to slot machines as authorized for use on the Eastern Shore by eligible organizations. Emergency bill, effective upon signing.

Community and Economic Development

HB 408 (Chapter 498)

Business and Economic Development – Qualified Distressed Counties

Bill Description: Expands the period for which the average rate of unemployment in a county must exceed 150% of the average rate of unemployment for the entire State from 18 months to 24 months in order to qualify as a distressed county. Provides that a county remains a qualified distressed county even if the county no longer meets either the unemployment or average personal per capita income requirements, but has done so at some point during the preceding 12-month period. Effective July 1, 2008.

HB 742/SB 281 (Chapter 387/386)

Affordable Housing Programs – Waiver or Modification of Fees and Charges – Enabling Authority for Counties and Municipalities

Bill Description: Authorizes a county or municipality to waive or modify building permit or development impact fees that are not mandated under State law for the construction or rehabilitation of lower income housing units, subject to certain restrictions. Requires the Department of Housing and Community Development to report to the General Assembly by October 1, 2010 on any waivers or modifications made by a local government under the provisions of this Act. Effective October 1, 2008. Sunsets September 30, 2011.

Education

HB 75/SB 238 (Chapter 376/375)

Juveniles – Arrests for Reportable Offenses – Expansion of Notification

Bill Description: Requires a law enforcement agency to notify a nonpublic school superintendent or principal when a student is arrested for certain reportable offenses or activity that is related to a student's membership in a criminal gang. The State's Attorney must promptly notify either the nonpublic school superintendent or principal of the disposition of the reportable offense of a student. The nonpublic school superintendent or principal must treat a notification from a law enforcement agency or State's Attorney as confidential. Effective October 1, 2008.

HB 133 (Chapter 45)

Commission to Develop the Maryland Model for Funding Higher Education – Membership and Extension of Sunset

Bill Description: Adds the Lieutenant Governor to the membership of the Commission to Develop the Maryland Model for Funding Higher Education. Requires the Commission to submit an interim report of its findings by December 31, 2007 and a final report by December 1, 2008. Extends the sunset of the Commission to June 1, 2009. Emergency bill.

HB 139 (Chapter 252)

Task Force to Study Issues Related to Students Subject to Multiple Suspensions

Bill Description: Establishes a Task Force to Study Issues Related to Students Subject to Multiple Suspensions. The Task Force shall study: (1) the feasibility and fiscal impacts of requiring local school systems to establish student services teams to provide case management to students who annually incur 10 or more days worth of suspensions; and (2) ways to enhance parent/guardian roles in curbing student suspensions. The Task Force must report its findings and recommendations to the Governor and General Assembly by January 15, 2009. Effective June 1, 2008. Sunsets May 31, 2009.

HB 169/SB 77 (Chapter 362/361)

Education – Children in Informal Kinship Care Relationships

Bill Description: Requires a county superintendent to allow a child who is a resident of the State to attend a public school in a school attendance area that is different from the school attendance area where the child is domiciled with the child's parent or legal guardian if the child lives with a relative providing informal kinship care and the relative verifies the informal kinship care relationship through a sworn affidavit. Effective October 1, 2008.

HB 199 (Chapter 489)

Public Schools – Bullying, Harassment, and Intimidation – Policy and Disciplinary Standards

Bill Description: Requires the State Board of Education to develop a model policy prohibiting bullying, harassment, and intimidation in public schools. This includes intentional conduct such as physical, verbal, or written conduct, as well as intentional electronic communications. Each county

board of education must establish a bullying, harassment, and intimidation policy, based on the model policy and develop certain educational programs bullying, harassment, and intimidation prevention programs. Requires a county board of education to annually report incidents of bullying in public schools to the State Board. Effective July 1, 2008.

HB 230 (Chapter 258)

Vehicle Laws – School Crossing Guards – Authority to Direct Traffic

Bill Description: Authorizes a school crossing guard who meets certain qualifications to direct traffic and pedestrians on a highway or school grounds to assist pedestrians at school crossings and school vehicles entering and leaving school grounds. Effective October 1, 2008.

HB 285/SB 96 (Chapter 368/367)

Education - Truancy Rates - Positive Behavioral Interventions and Support Programs and Behavior Modification Programs

Bill Description: Requires a school that has a truancy rate above a certain percentage of enrollment (8% for the 2008-09 school year, dropping to 1% for the 2012-13 school year and each year thereafter) to implement positive behavioral interventions and support program or an alternative, researched-based, positive, and effective behavior modification program. Effective July 1, 2008.

HB 536/SB 473 (Chapter 405/404)

Public Schools – Youth Risk Behavior Surveillance System – Passive Parental Consent

Bill Description: Requires local school system to utilize a passive parental consent form for students taking the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System Survey. A parent or guardian would have to fill out the form and return it in order to deny permission for a student to take the survey. The consent form must be included as part of the emergency contact information packet distributed to each student or parent or guardian of the student. Effective October 1, 2008.

HB 652 (Chapter 289)

Education – Public School Employees – Criminal Convictions

Bill Description: Prohibits a county board of education from knowingly hiring or retaining an individual who has been convicted of a crime involving a third-degree sexual offense, child sexual abuse, or a crime of violence. Effective October 1, 2008.

HB 704 (Chapter 341)

Higher Education Investment Fund – Expenditures – Base Realignment and Closure Process

Bill Description: Expands the use of the Higher Education Investment Fund to include initiatives to address higher education needs related to the United States Department of Defense Base Realignment and Closure process. Effective July 1, 2008.

HB 784/SB 457 (Chapter 403/402)

Task Force on Educational Issues Affecting Military Children

Bill Description: Establishes the Task Force on Educational Issues Affecting Military Children. The Task Force shall: (1) identify and examine educational issues that affect military children; (2) examine existing efforts to ease the transition of military children into Maryland schools; (3) make recommendations on further efforts to ease the transition of military children into Maryland schools; and (4) examine the feasibility of the State joining the Interstate Compact on Educational Opportunities for Military Children. The Task Force must report to the Governor and the General Assembly by December 1, 2008. Effective June 1, 2008. Sunsets May 31, 2009.

HB 953/SB 264 (Chapter 379/378)

High School Dropouts – Alternative Education Programs and GED Requirements

Bill Description: Requires, to the extent possible, each county board of education to provide to a student who withdraws from high school without obtaining a high school certificate or diploma information concerning alternative education programs and GED program requirements and testing locations. Effective October 1, 2008.

HB 1158 (Chapter 683)

Safe Schools Reporting Act

Bill Description: Authorizes a school staff member to report an incident of harassment or intimidation of a student under the Safe Schools Reporting Act. Effective July 1, 2008.

HB 1209 (Chapter 687)

Safe Schools Reporting Act of 2005 – Sunset Repeal

Bill Description: Repeals the June 30, 2009 sunset date of the Safe Schools Reporting Act. Effective July 1, 2008.

HB 1411/SB 849 (Chapter 465/464)

Fitness and Athletics Equity for Students with Disabilities Act

Bill Description: Requires the State Board of Education and each local board of education to ensure that students with disabilities have an equal opportunity to participate in mainstream physical education programs and try out for mainstream athletic programs; ensure the provision of reasonable accommodations, to the fullest extent possible, to allow disabled students to participate in mainstream physical education and athletic program; and ensure that athletic programs for disabled students or a mix of disabled and non-disabled students are available. An exception is provided where inclusion of a disabled student presents an objective safety risk or would fundamentally alter the nature of a school's mainstream physical education or athletic program. Local boards have 3 years from the effective date of the bill to comply and the Maryland State Department of Education will monitor compliance. Effective July 1, 2008.

SB 203 (Chapter 134)

Department of Labor, Licensing, and Regulation – Consolidation of Workforce Development Functions – Transfer of Adult Education and Literacy Services and Education Programs for Correctional Facilities

Bill Description: Transfers adult education responsibilities from the Maryland State Department of Education and the Department of Public Safety and Correctional Services to the Division of Workforce Development within the Department of Labor, Licensing, and Regulation (DLLR). Creates within the Division an Adult Education and Literacy Services Office to oversee the administration and funding for adult education and literacy. Creates a Workforce Creation and Adult Education Transition Council in DLLR to coordinate the integration of adult education and literacy services with the Division and assist in the development of a new State plan for adult education. Effective July 1, 2008

SB 297 (Chapter 571)

Tax Credit for Employer Established Work-Based Learning Programs for Students

Bill Description: Authorizes an employer to claim a tax credit in an amount equal to 15% of the wages paid to each student during a taxable year under a work-based learning program that has been approved by the Maryland State Department of Education. Employers are limited to a maximum of two students and a cumulative credit per student is \$1,500. Effective July 1, 2008. Sunsets June 30, 2013.

SB 428 (Chapter 175)

Education – Military Recruiters – Student Contact Information – Opportunity to Opt Out

Bill Description: Requires a public school to provide notice and a request form that allows the student or a parent or guardian to request that the student's name and contact information be withheld from military recruiters. The notice and request form must be included on a student's emergency contact information card. Effective October 1, 2008.

SB 773 (Chapter 451)

State Department of Education – Adult Education and Family Literacy Services

Bill Description: Requires the Maryland State Department of Education to annually compile a list by county of adult education and literary services offered to the public, distribute the list to each local school system, and post the list on its public website. Effective October 1, 2008.

SB 955 (Chapter 473)

Task Force on Student Physical Fitness in Maryland Public Schools

Bill Description: Establishes a Task Force on Student Physical Fitness in Maryland Public Schools. The Task Force shall study: (1) the advisability of requiring all public schools in the State to provide a minimum amount of physical activity or physical education to students each week; (2) the impact a minimum weekly requirement would have on childhood obesity and related health issues; (3) the monetary costs and possible funding mechanisms to implement a minimum weekly requirement; and

(4) results obtained from Maryland or other state school systems that have a minimum weekly requirement. The Task Force shall report its findings and recommendations to the Governor and General Assembly by November 20, 2008. Effective July 1, 2008. Sunsets June 30, 2009.

MACo opposed SB 955 as introduced. Originally, the bill would have required all public school students in kindergarten through grade eight to be provided daily programs totaling 150 minutes a week, including a minimum of 90 minutes a week of physical education. The bill would have cost local school systems \$26.5 million by FY 2012 to hire additional physical education teachers for elementary schools, plus an unknown amount of capital costs for gymnasiums and facilities. The bill was subsequently amended from an unfunded mandate to a task force..

Employee Benefits

SB 375 (Chapter 392)

State Retirement and Pension System - Imposition of Administrative Fees on Employers

Bill Description: Authorizes the Board of Trustees of the State Retirement and Pension System (SRPS) to adopt regulations that allow it to impose an administrative fee on any employer that does not provide enrollment paperwork for new employees in a timely fashion. Since many local governments are participants in the SRPS, the bill could carry a penalty for any who are out of compliance. Effective July 1, 2008.

SB 564 (Chapter 720)

State Retirement and Pension System - Reemployment of Retirees

Bill Description: Requires local school systems to reimburse the State Retirement and Pension System for the offset of pension benefits for reemployed retired teachers that result from late or non-reporting of reemployed retirees who are exempt from the offset. Additionally, the bill requires the Joint Committee on Pensions to study issues related to the reemployment of SRPS retirees and submit a report to the General Assembly by December 31, 2008. Effective July 1, 2008, with several special provisions dealing with judges that have temporary effective periods.

SB 797 (Chapter 220)

Labor and Employment - Wage Payment on Termination of Employment - Accrued Leave

Bill Description: Specifies that an employer, at termination of employment, is not required to pay accrued leave to an employee if the employer has a written policy that limits the compensation of accrued leave and the employee is not entitled to payment of accrued leave under the terms of the policy. Also requires an employer to provide notice of the employer's leave benefits to each new employee. Emergency bill, effective upon signing, with specific retroactive application.

Environment

HB 369/SB 213 (Chapter 121/120)

Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and Nonpoint Source Fund

Bill Description: Clarifies that the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund shall be used for nonpoint source pollution control projects to achieve the State's tributary strategy developed in accordance with the Chesapeake 2000 Agreement and to improve the health of the Atlantic Coastal Bays and their tributaries. Establishes the BayStat Program to measure and evaluate efforts to restore the Chesapeake Bay and administer the Trust Fund through the BayStat Sub-cabinet and the BayStat Program Scientific Advisory Panel. Establishes the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund to provide financial assistance for the implementation of urban and suburban stormwater management practices and stream and wetland restoration. Effective July 1, 2008.

MACo Position: A reworking of the "Green Fund" legislation that was discussed during the 2007 regular session, the basic framework of Trust Fund was passed during the 2007 Special Session. HB 369/SB 213 provided further detail concerning the administration and use of the Trust Fund.

MACo has consistently supported the creation of the Trust Fund with amendments ensuring that a portion of the Trust Fund be available to counties for local projects, including agricultural preservation. In response to MACo's advocacy, the General Assembly added intent language to the bill stating that when possible, money from the Trust Fund should go to local governments for agricultural, forestry, stream and wetland restoration, and urban and suburban stormwater nonpoint source pollution control projects.

HB 375/SB 209 (Chapter 126/125)

Renewable Portfolio Standard Percentage Requirements – Acceleration

Bill Description: Increases the percentage amount of electricity in the renewable energy portfolio standard that must be generated by Tier 1 renewable sources, starting with an increase from 3.04% to 5.0% in 2011 and ending with an increase from 9.5% to 20% in 2022 and subsequent years. Increases the penalty that an electricity supplier must pay into the Maryland Renewable Energy Fund if the supplier fails to comply with the renewable energy portfolio standard. If certain cost thresholds are exceeded, an electricity supplier may request the Public Service Commission to delay by one year any increase in its Tier 1 renewable sources ratio. Effective January 1, 2009. Part of the bill sunsets December 31, 2018.

HB 581/SB 831 (Chapter 226/225)

Environment – Bay Restoration Fund – Authorized Uses of Fund

Bill Description: Authorizes the use of monies from the failing septic system and onsite sewerage disposal system account within the Bay Restoration Fund for the installation of new community sewerage systems to replace multiple failing on-site sewage disposal systems that are located in the same community. The community sewerage system must be owned and operated by a local government and meet enhanced nutrient removal standards. Effective October 1, 2008.

MACo Position: Replacing failing septic systems and onsite sewerage disposal systems is an important local purpose of the Fund. MACo supported the bills as they expand the use of Fund monies for this purpose in a way that is financially and environmentally sensible.

HB 972 (Chapter 104)

Forest Conservation – Reporting and Enforcement

Bill Description: Requires a local authority that is conducting a forest conservation enforcement action to notify the Department of Natural Resources (DNR) within 15 days after the commencement of the enforcement activity. Requires DNR to include certain additional information in its annual report to the Senate and House environmental committees. Effective October 1, 2008.

HB 973 (Chapter 304)

Water Management Administration – Living Shoreline Protection Act of 2008

Bill Description: Requires that shoreline erosion control projects consist of nonstructural or “soft” shoreline stabilization measures, such as living shorelines, except in areas designated by the Maryland Department of the Environment (MDE), as appropriate for structural or “hard” stabilization measures (bulkheads, riprap, etc.) or in areas where a person can demonstrate to MDE’s satisfaction that nonstructural measures are not feasible. Effective October 1, 2008.

HB 1056 (Chapter 142)

Environment – Water Management Administration – Wetlands and Waterways Program Fees

Bill Description: Requires a fee for certain wetlands and waterways authorizations issued by the Maryland Department of the Environment (MDE) or wetlands licenses issued by the Board of Public Works. Creates a Wetlands and Waterways Program Fund for activities related to (1) the issuance of certain water and wetland authorizations and permits; (2) the protection of the State’s wetlands and waterways resources; and (3) water resources program development. Requires MDE, in conjunction with certain State and federal agencies, to review the current wetlands and waterways joint permitting process and develop an action plan to improve the process. Expands the use of the Tidal Wetlands Compensation Fund. Requires MDE to provide a certain notice to applicants seeking a non-tidal wetlands permit. Effective July 1, 2008.

HB 1193/SB 590 (Chapter 194/193)

Environment – Statute of Limitations

Bill Description: Provides that the statute of limitations for any criminal or civil action for a violation of any provision of the Environment Article of the Maryland Code, or any rule, regulation, order, or permit adopted or issued under the Article, shall be 3 years after the date the Maryland Department of the Environment knew or reasonably should have know of the violation. Effective October 1, 2008.

HB 1423/SB 674 (Chapter 198/197)

Water Resources – Groundwater Appropriation or Use – Priority Funding Areas

Bill Description: Authorizes the Maryland Department of the Environment, when appropriating groundwater of the State in Carroll, Frederick, or Washington counties, to give priority to a public water system that provides water to: (1) a municipal corporation, not including those areas annexed after January 1, 2000; or (2) a priority funding area established on or before January 1, 2000. Effective October 1, 2008.

SB 442 (Chapter 141)

Environment – Clean Air Permit Fees

Bill Description: Increases the amount that may remain in the Maryland Clean Air Fund without reverting to the General Fund from \$750,000 to \$2 million. Increases the fee cap for an ambient air quality control permit to \$50 per ton of regulated emissions and \$500,000 for any single source in calendar years 2008 and 2009. Removes the 4,000 tons per year of any single pollutant cap from the definition of "regulated emissions". Effective October 1, 2008.

Finance

HB 429/SB 455 (Chapter 502)

Personal Property Tax - Refunds and Reports - Interest

Bill Description: Authorizes a county to provide a personal property tax refund without interest within 180 days after the claim is approved if it is determined by the State Department of Assessments and Taxation that the refund is the result of a failure to file a specified report or other taxpayer error. The bill takes effect June 1, 2008 and applies to all taxable years beginning after June 30, 2008.

MACo Action: MACo supported HB 429/SB 455 as an important clarification to legislation passed in 2002, and helped to prepare clarifying amendments to do so. The bill simply clarifies provisions of law that may have been interpreted to trigger interest on refund payments arising from taxpayer error, which was not intended but left arguably ambiguous in the statute in 2002.

HB 573/SB 481 (Chapter 586/585)

Disabled Law Enforcement Officers and Rescue Workers - Property Tax Credit

Bill Description: Authorizes local governments to grant a property tax credit for a dwelling owned by a disabled law enforcement officer, rescue worker, or correctional officer by expanding the eligibility criteria for an existing property tax credit. Effective June 1, 2008.

HB 680 (Chapter 290)

Arts and Entertainment Districts - Tax Benefits - Jewelry and Clothing Designers

Bill Description: Expands the eligibility criteria for the tax benefits available for qualifying residing artists in Arts and Entertainment Districts. An individual who creates original jewelry, clothing, or clothing design would be classified as an artist under the program, and therefore eligible for tax benefits under a locally created district. Effective July 1, 2008.

HB 722 (Chapter 668)

Property - Tax Sale - Notification

Bill Description: Requires county tax collectors, prior to beginning the tax sale process, to provide a list to the local area agency on aging of any persons who have delinquent taxes on a property if the property owner on record has owned the property for at least 25 years. The list must be mailed at least 30 days before the property is first advertised for a tax sale. Effective October 1, 2008.

HB 865 (Chapter 525)

Procurement - eMaryland Marketplace - Use

Bill Description: This bill requires state and local governmental entities to publish notices of procurements and procurement awards on eMaryland Marketplace (eMM). The requirement extends only to contracts procured through competitive sealed bidding, competitive sealed proposals, and noncompetitive negotiations, and to procurements whose value equals or exceeds \$25,000, the threshold for state contracts. Local governments may continue to publish notices of procurements according to other laws or policies.

MACo Position: MACo supported the bill, successfully seeking an amendment to clarify that an unintentional violation of the bill's requirements is not grounds for challenging or appealing a contract award or procurement process.

HB 1211/SB 854 (Chapter 334/333)

Tax Sales - Minimum Tax Due - Redemption Payments - Reimbursement of Expenses on Redemption

Bill Description: Increases the minimum amount of taxes due on a property from \$100 to \$250 by which a tax collector may withhold the property from a tax sale. The bill also alters the manner by which a person redeeming a property must pay the collector specified expenses and fees; and the types and amounts of expenses for which a plaintiff or holder of a certificate of sale is entitled to be reimbursed on redemption. The emergency bill was effective upon its signature into law April 25, but has prospective effect only to tax sale certificates issued after the effective date.

MACo Position: MACo was among several participants in an extended 'working group' that ultimately fashioned the compromise legislation. For more detail on the legislation and its impacts, see the MACo Tax Sale Bulletin from April 2008.

HB 1585/SB (Chapter 472)

Local Governments - Postemployment Benefits - Investment of Funds

Bill Description: Authorizes local governments to contract with external asset managers to manage or invest money designated for other postemployment benefits (OPEB) besides employee pensions. It further authorizes local governments to create pooled OPEB investment funds with separate accounts for each local government that participates in the fund, and to remit funds intended for OPEB to the Treasurer for investment in the Local Government Investment Pool.

MACo Position: MACo sought this bill as one of its annual legislative initiatives, hoping to provide additional flexibility for any local government that may be making investments toward future benefit costs. While some counties are seeking to create local trustee oversight, this legislation allows other more flexible and collaborative options.

SB 208 (Chapter 124)

High Performance Buildings Act

Bill Description: Requires new or renovated State buildings and new school buildings to be constructed as high performance buildings under specified circumstances. The Departments of Budget and Management (DBM) and General Services (DGS) and the Board of Public Works (BPW) are to establish a waiver process for projects to be excluded from this requirement. The State will fund 50% of the local share of increased school construction costs associated with high performance buildings in fiscal 2010 through 2014. Effective for FY 2009 and beyond.

SB 760 (Chapter 210)

Property Tax Credit - Residence of Homeowner's Family Member

Bill Description: Authorizes a county or municipality to establish a local option property tax credit against the county or municipal property tax imposed on a family assistance dwelling, owned by one person but used by a low-income family member. A local government may provide, by law, for the amount and duration of the tax credit, and any other provision necessary to carry out the tax credit.

MACo Position: MACo had opposed the bill as introduced, as a mandatory expansion of the Homestead Property Tax Credit. At the bill's public hearing, MACo suggested that a local option property tax credit could effect the same results, and the legislation was amended to create such a program, eliminating MACo's objections.

Government Liability and Courts

HB 1134/SB 579 (Chapter 597/596)

Immunity from Liability – Use of Automated External Defibrillator

Bill Description: Repeals an eligibility requirement for immunity while using an automated external defibrillator (AED) that an individual is using the AED at an authorized facility, has successfully completed an AED training course, or is using an AED obtained by a prescription issued by a physician. The bill also clarifies that an individual may not claim immunity if the individual's conduct amounts to gross negligence, willful or wanton misconduct, or intentionally tortuous conduct. Effective October 1, 2008.

MACo Position: MACo supported the legislation, noting that part of MACo's traditional opposition to AED mandates is partly due to liability concerns. Since technology has essentially enabled AEDs to be self-implementing, MACo believed that it made sense to eliminate the provisions making immunity contingent on factors such as the completion of an AED course.

HB 869/SB 271 (Chapter 381/380)

Admissibility of Evidence – Intercepted Communications – Electronic

Bill Description: Prohibits the use of an intercepted electronic communication or any evidence derived from the communication in court or a State or local government proceeding if the interception violates Maryland's wiretapping or electronic surveillance laws. Allows the use of an electronic communication intercepted outside the State in court or a State or local government proceeding that would not be allowed if intercepted in Maryland if certain conditions are met. The bill also repeals an existing provision of law excluding the radio portion of a cordless telephone communication that is transmitted between the handset and the base unit from being considered an electronic communication. Effective October 1, 2008.

Health

HB 393 (Chapter 270)

Communicable Diseases or Conditions - Reporting

Bill Description: Removes the specified list of 68 reportable diseases and conditions along with the 48-hour time limit on reporting. Rather, DHMH will now specify reportable diseases and conditions and timeframe requirements in State regulations. Finally, the bill authorizes the Secretary to require laboratories to submit clinical material when necessary, alters the format of disease reports made by laboratories, and makes various other technical changes relating to reporting requirements and dissemination of reported information.

HB 653/SB 600 (Chapter 427/426)

Schools - Early Intervention - Hearing and Vision Screenings

Bill Description: Eliminates the requirements for student hearing and vision screenings in grade four, five, or six and grade nine and replaces them with required screenings in grade one and grade eight or nine. Further screenings must also be done in accordance with policies adopted by local boards of education and local health departments. The parent or guardian of a student who does not pass a screening must report on the recommended services received by the student, and the report must be submitted on a form provided by the local board of education or the local health department.

Parks and Recreation

HB 1604/SB 1000 (Chapter 248/247)

Department of Natural Resources - Community Parks and Playgrounds Program

Bill Description: Modifies the existing Community Parks and Playgrounds Program within the Department of Natural Resources to provide flexible grants to municipalities and Baltimore City for a range of park-based programs. Program Open Space is to administer the program, which may be funded with general funds and with the proceeds from the sale of State general obligation bonds. It is the intent of the General Assembly that, to the extent funds are available, the Governor provide funding for the program. Effective beginning in FY 2010.

SB 259 (Chapter 163)

Program Open Space - Attainment of Acquisition Goals - Increased Allocation for Local Government

Bill Description: Increases the maximum percentage (from 75% to 100%) of Program Open Space funds that a local government may spend on development projects after certification by the Department of Natural Resources and the Maryland Department of Planning that it has attained its acreage acquisition goals. Effective June 1, 2008 with a two-year sunset period ending May 31, 2010.

Planning and Zoning

HB 976 (Chapter 105)

Maryland Agricultural Land Preservation Programs – Lot Releases

Bill Description: Before releasing a lot that is under an agricultural preservation easement to a landowner for the purpose of building a house for the landowner or a child of the landowner, the Maryland Agricultural Land Preservation Foundation (MALPF) must receive a statement by the landowner or child acknowledging that: (1) adjacent farmland that is subject to an agricultural preservation easement may be used for any agricultural purpose and may interfere with the use and enjoyment of the property; and (2) there is no recourse against the effects of any normal agricultural operation performed in accordance with good husbandry practices. Also alters the 2-acre lot size exception. Effective October 1, 2008.

HB 1253 (Chapter 119)

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Administrative and Enforcement Provisions

Bill Description: Authorizes the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (CAC) to adopt regulations for specified purposes. Alters the measurement that determines how much of a lot or parcel may be developed within a critical area from the amount of impervious surface on the lot or parcel to the total “lot coverage” that has been developed. Requires the CAC to consider specific factors when reviewing a map amendment or refinement involving the use of growth allocation. Increases the buffer in certain Resource Conservation Areas from 100 feet to 200 feet. Requires the use of nonstructural “soft” shoreline erosion control and stabilizations measure where possible. Requires local governments to provide enhanced notice to the CAC of variance or mapping mistake decisions and potential appeals. Prior to an issuance of a permit, approval, variance, or special exception for a property subject to a critical area violation, an applicant must pay all fines and perform environmental abatement on the property. Each calendar day that a critical area offense continues constitutes a separate violation that is subject to a maximum \$10,000 fine. The licenses of contractors, homebuilders, and tree experts can be denied, suspended, or revoked if they violate critical area law. Provides for a right of entry by a local authority to identify or investigate a violation or potential violation of the critical area law. Provides for a remapping of the critical area maps using the Statewide Base Map as the new template. Maps will be updated every 12 years. Effective July 1, 2008.

For further detail, see “Focus on: Critical Area Law” on page 31.

MACo Position: MACo's support for HB 1253 was contingent upon amendments addressing four areas of concern. MACo worked extensively with the CAC, the Governor's staff, the General Assembly, and other concerned parties throughout the Session to ensure that county concerns were adequately addressed. Based on amendments added by the House of Delegates, MACo ultimately supported the bill.

Public Ethics and Information

SB 147 (Chapter 19)

State Archives – Records and Other Services – Fees

Bill Description: Authorizes the State Archivist to establish reasonable fees for the care and preservation of records and other services provided by the Archives. The fees may be in the form of: (1) a percentage not to exceed 2% of an existing fee charged at the time of the creation of a record; or (2) a flat rate subscription charge for an Archives publication. Seven percent of the fees must be deposited in the Archives Endowment Account of the State Archives Fund. Effective October 1, 2008.

Public Safety and Corrections

HB 6/SB 76 (Chapter 360/359)

Criminal Procedure – Custodial Interrogation – Recordation

Bill Description: Provides that it is the public policy of the State that law enforcement units who have interrogation rooms capable of making audiovisual recordings of custodial interrogations use them whenever possible to create recordings of interrogations of criminal suspects in connection with cases involving murder, rape, or first and second degree sexual offenses. Law enforcement units that do not have interrogation rooms capable of making audiovisual recordings must make reasonable efforts to create audio recordings of such interrogations. The Governor's Office of Crime Control and Prevention must report on the progress of local jurisdictions and the Department of State Police in meeting the State policy. Effective October 1, 2008.

HB 18/SB 56 (Chapter 353/352)

Sex Offender Registry – Additional Information

Bill Description: Requires individuals who must register under Maryland's sex offender registry to provide certain additional information, including a list of aliases, email addresses, computer user names, license plate numbers, vehicle descriptions, and a copy of the individual's driver's license or identification card. Effective October 1, 2008.

HB 235 (Chapter 651)

Maryland Medical Assistance Program - Transporters

Bill Description: Repeals the existing \$100 per transport cap on the Department of Health and Mental Hygiene's (DHMH) reimbursement of emergency service transporter charges under the Maryland Medical Assistance Program. Instead, DHMH would set the reimbursement rate. The bill also requires DHMH to study the feasibility and cost benefits of creating a uniform non-emergency statewide transportation program to serve enrollees of the Program. Effective July 1, 2008.

MACo Position: MACo supported the bill. The \$100 cap was established in 1998 and has never been increased. The rate no longer covers the transport costs incurred by local emergency service transporters and the bill grants DHMH the flexibility to set a reimbursement rate consistent with actual transport costs.

HB 359 (Chapter 496)

Local Correctional Facilities – Inmate Health Care Expenses – Payment Rates to Health Care Providers

Bill Description: Provides that the cost for any health care services provided to a local inmate outside of a local correctional facility is set at the lesser of: (1) the actual amount billed by the health care provider for the service; or (2) the Medicaid rate for the service. A county may elect to negotiate a higher rate. The bill's provisions do not affect existing health care contracts and exempts regulated hospitals. Effective July 1, 2008.

MACo Position: Local inmate health care costs constitute a significant portion of local correctional facility operating expenditures. Counties that pay directly for health care benefits are especially impacted. HB 359 provides immediate benefits for those counties and future benefits for counties who provide inmate health care services through a contractors as they may use the benefit of the lower rates as an incentive for better terms when a contract is renegotiated.

MACo supported HB 359 with amendments that conformed it to its Senate cross-file, SB 225, which did not pass. Despite last-minute opposition to the bill by emergency room and medical specialist representatives, HB 359 passed with the Senate amendments.

HB 707 (Chapter 515)

Department of State Police – State Aid for Police Protection Fund – Transfer to Governor’s Office of Crime Control and Prevention

Bill Description: Transfers the administration of the State Aid for Police Protection Fund from the Department of State Police to the Governor’s Office of Crime Control and Prevention (GOCCP). States that it is the intent of the General Assembly that GOCCP administer the Fund with existing resources. Effective July 1, 2008.

HB 765 (Chapter 670)

Public Safety – Correctional Officers – Minimum Age

Bill Description: Prohibits any unit of the State Division of Pretrial Detention and Services or the Patuxent Institution from hiring a correctional officer on or after October 1, 2008, who is less than 21 years old. Honorably discharged veteran or reserve members of the United States armed forces are exempt from the age requirement. Effective October 1, 2008.

HB 869/SB 271 (Chapter 381/Chapter 380)

Admissibility of Evidence – Intercepted Communications - Electronic

Bill Description: Prohibiting the use of an intercepted electronic communication or any evidence derived therefrom in court or a State or local government proceeding if the interception violates Maryland law. Allowing the use of an electronic communication in court or a State or local government proceeding if the communication was intercepted outside of the State and meets certain requirements. Effective October 1, 2008.

SB 211 (Chapter 337)

Public Safety – Statewide DNA Data Base System – Crimes of Violence and Burglary – Sample Collections on Charge – Post-conviction DNA Testing

Bill Description: Requires that a DNA sample be collected from an individual who is charged with a crime of violence, attempted crime of violence, burglary, or attempted burglary. The sample is collected at the time the individual is charged. The DNA sample shall be immediately destroyed and expunged from any local, State, or federal database where it was entered if the individual is not convicted, the conviction is finally reversed or vacated with no new trial permitted, or the individual

is granted an unconditional pardon. The Department of State Police, with the assistance of local law enforcement agencies, must make annual reports about DNA samples collected upon charging, including total expenses incurred and a statistical analysis of the racial demographics of individuals submitting a DNA sample upon charging. Local law enforcement units must annually report to the Office of Legislative Audits on the status of crime scene DNA collection and analysis. The bill also creates procedures for the use of DNA in post-conviction proceedings. Effective January 1, 2009. Sunsets December 31, 2013.

Taxes and Revenues

HB 377 (Chapter 132)

Solar and Geothermal Tax Incentive and Grant Program

Bill Description: Increases limits under the Solar Energy and Geothermal Heat Pump grant programs, exempts the sale of specified solar energy and geothermal equipment from the State sales and use tax, and exempts specified solar energy property from State and local real property taxes. The bill also specifies that a geothermal heating and cooling system, either as a stand-alone system or as a combined geothermal and conventional system, is not to be assessed, for property tax purposes, at more than the value of a conventional system. The bill takes effect for FY 2009.

HB 612.SB 676 (Chapter 281/280)

Property Tax Credit - Commercial Waterfront Property

Bill Description: Authorizes a local option property tax credit for "commercial waterfront property" used primarily for a commercial fish operation, marina or marine repair facility. Local governments may provide, by law, for the amount and duration of the credit, and other implementing provisions. The bill is effective for FY 2009.

MACo Position: MACo recognized the pressures created on "traditional" waterfront businesses by the increased use of waterfront area for high-end residential development. With rapid assessment increases placing burdens on these businesses, MACo supported amendments to authorize a local option tax credit (rather than a revised assessment process, as had been originally proposed).

SB 527 (Chapter 414)

Spending Mandate and Revenue Dedication Relief Act

Bill Description: Part of the budget reconciliation effort for FY 2009, reduces and eliminates general fund spending mandates and redirects revenues from special funds to the general fund. Funding for libraries and circuit court space rental are among the reductions, each with an effect on county government.

MACo Position: MACo continued its position of accepting reasonable accommodations in funding formulas to help resolve the State's structural fiscal woes, and supported the bill as introduced, but suggesting that additional cuts would be unfair.

Transportation and Public Works

HB 373/SB 204 (Chapter 123/122)

Maryland Transit Administration - Transit-Oriented Development

Bill Description: Defines and codifies “transit-oriented development” (TOD) as an essential part of the State’s transportation mission. TOD means a mix of commercial and residential structures and parking, and other uses or improvements as part of a deliberate development plan or strategy located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station. The bill specifies a level of coordination between the State and affected local jurisdictions on land use governance.

MACo Position: MACo supported the bill to more clearly spell out the cooperative opportunity between the State and counties to better leverage transit stations as centers for local development and commercial sites.

Focus On:
Critical Area Law

During the 2008 Session, the General Assembly passed HB 1253, an Administration-sponsored bill that significantly changes Maryland's Critical Area Law. MACo worked extensively with the Administration and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (CAC) to protect local land use authority. This collaborative approach was ultimately successful and MACo joined a broad coalition, including MML, the environmental community, and the building community in supporting the final version of the bill.

MACo testified that its support for the bill would be contingent on amendments that would address four key areas of concern. If the four issues could not be addressed to MACo's satisfaction, then MACo would recommend that the bill be committed to summer study. The four areas included: (1) deleting the bill provisions allowing the CAC to overrule a local government's decision to grant an after-the-fact variance or mapping error; (2) defining the CAC's authority to adopt regulations within specific parameters; (3) modifying the factors considered by the CAC when deciding whether to grant a request to use growth allocation; and (4) recognition of the increased enforcement funding burdens placed on the counties by the bill.

After many hours of intense negotiation with the CAC and the Governor's legislative office, MACo agreed to a set of compromise amendments that addressed its four concerns. The amendments removed the ability of the CAC to overrule local government decisions and instead required that local governments provide better notice to the CAC of variance or mapping mistake decisions and potential appeals, so that the CAC can make a more accurate determination of when to use its existing authority to intervene in a case or appeal.

The amendments also explicitly defined the CAC's authority to adopt regulations, rather than granting the CAC *carte blanche* authority. Finally, the amendments clarified that the factors considered by the CAC when reviewing a map amendment or refinement involving the use of growth allocation were specific and related directly to water and habitat protection in the Critical Area. In the original version of the bill, the factors were very vague, giving the CAC broad authority to reject the use of growth allocation.

Amendments were also added to the bill by the CAC and the building community, which MACo also agreed to. The Senate added several additional amendments on the floor, most notably reducing the expansion of the critical area buffer from 300 feet to 200 feet (the buffer was originally 100 feet). MACo had no issues with the Senate amendments. The CAC and Administration agreed with the Senate amendments and the bill passed both Houses with bipartisan support.

Focus On:
Speed Cameras

One of MACo's 2008 legislative initiatives was statewide legislation that would authorize counties to use speed cameras on their residential roads and in school zones. MACo had previously supported speed cameras as a legislative initiative in 2003, when legislation for the State-wide authorization of speed cameras passed the General Assembly but was vetoed by Governor Bob Ehrlich on policy concerns. A local bill authorizing Montgomery County and its municipalities to establish a speed camera program passed in 2005.

The 2008 initiative was part of a comprehensive bill, HB 364/SB 269, sponsored by the O'Malley Administration that also allowed local governments and the State to use speed cameras in highway work zones. Both bills passed their respective Houses, but with differing amendments that required them to go to a conference committee. 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 several minutes before Sine Die. The Senate tabled its discussion and both bills died as the 2008 Session ended.

The local provisions of the bills were initially modeled after the 2005 Montgomery County legislation. As amended by the conference committee, the bill would have allowed local governments to place speed cameras on residential roads with a speed limit of 45 MPH or less and in school zones. Before implementing speed cameras, the local government must hold a public hearing and pass an ordinance or resolution authorizing their use.

The fine for a speed camera citation cannot exceed \$40 and citations do not become part of a driver's record and cannot be used to assess points, deny the driver auto insurance, or increase the driver's insurance rates. Local governments collect the fine if the citation is paid and not contested in District Court. They may use any remaining balance after paying for the costs of administering the speed camera program solely for public safety related purposes, including pedestrian safety programs. Any remaining balance not spent within 2 years after its collection goes into the State General Fund. The District Court collects the fine if the citation is contested and distributes the fine in the same manner as all other traffic fines that are collected by the Court.

The bills also authorize local governments and the State Highway Administration (SHA) to place speed cameras in work zones on expressways or controlled access highways that have a speed limit of at least 45 MPH. Work zone speed cameras must be operated by: (1) a police officer or representative of a police department; or (2) a SHA contractor. Fines are collected by the District Court. In most other respect, the provisions relating to work zone speed cameras are identical to residential and school zone cameras.

MACo is considering whether to make speed cameras one of its 2009 Session legislative initiatives.

MACo Legislative Statistics, 1994-2008

1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008

# OF BILLS INTRODUCED BY GENERAL ASSEMBLY	2592	2294	2299	2385	2227	2049	2347	2408	2427	1959	2482	2632	2856	2480	2641
# OF BILLS PASSED BY GENERAL ASSEMBLY	911	788	803	899	901	830	884	941	918	629	851	826	901	707	945
# OF BILLS PRESENTED TO LEGISLATIVE COMMITTEE	127	125	127	115	95	87	107	86	78	87	110	93	172	94	101
% OF TOTAL BILLS INTRODUCED BY GENERAL ASSEMBLY	5%	5%	5%	5%	4%	4%	5%	4%	3%	4%	4%	3%	6%	4%	4%
# OF BILLS COMMITTEE TOOK POSITION ON	111	72	80	61	60	52	58	56	51	53	68	56	88	58	64
% OF BILLS PRESENTED TO LEGISLATIVE COMMITTEE	87%	57%	63%	53%	65%	60%	54%	64%	65%	61%	62%	60%	51%	62%	63%
# OF BILLS ACTION TAKEN W/O PRIOR LEGISLATIVE COMMITTEE APPROVAL	-	4	7	3	3	3	12	6	4	3	1	1	13	3	2
# OF BILLS SUPPORTED	48	44	51	38	40	38	55	42	31	32	49	31	54	38	41
# OF BILLS OPPOSED	38	29	29	23	23	17	15	20	24	24	20	26	47	23	37
# OF BILLS NO POSITION TAKEN	41	48	47	54	35	35	46	31	27	29	32	37	84	36	25

Measuring MACo's Success for 2008

Text in Bold = MACo Victory *Text in Italics = MACo Loss*

MACo Supported	
Bill Passed	16
<i>Bill passed with amds eliminating support</i>	<i>0</i>
<i>Bill Failed</i>	<i>14</i>
Success Rate	53%

MACo Supported only with requested Amendments	
Bill passed w/MACo amendments	6
Bill failed	5
<i>Bill passed without MACo amendments</i>	<i>0</i>
Success Rate	100%

MACo Opposed	
Bill Failed	36
Bill passed w/amds acceptable to MACo	1
<i>Bill passed despite MACo objections</i>	<i>0</i>
Success Rate	100%

MACo's 2008 Overall Success Rate = 64/78 = 82%

compiled June 12, 2008



About MACo

Members of the Maryland Association of Counties (MACo) are the elected officials of Maryland's 23 counties and Baltimore City, including the Baltimore City Mayor, county executives, council members, and county commissioners.

MACo's members determine Association policy and positions on executive and legislative proposals through an elected board and the Legislative Committee.

The Association is committed to being non-partisan, promoting and advancing the general well being of Maryland's citizens through efficient, effective, and responsive county government.

Legislative Affairs

MACo provides a single, non-partisan voice for county government issues. It advocates this county position before the Governor, the General Assembly, executive branch officials, and federal decision-makers.

Every subdivision in the State designates a representative to the Legislative Committee, which determines positions on legislation impacting county government. The Committee meets on Wednesdays during the Legislative Session. During the interim, the Committee devotes time to identifying MACo's legislative initiatives.

Representation

The Association is diligent in ensuring that county government is represented on various commissions, task forces, and workgroups considering county government issues. MACo is regularly requested by the Governor and the General Assembly to nominate county officials to these groups.

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