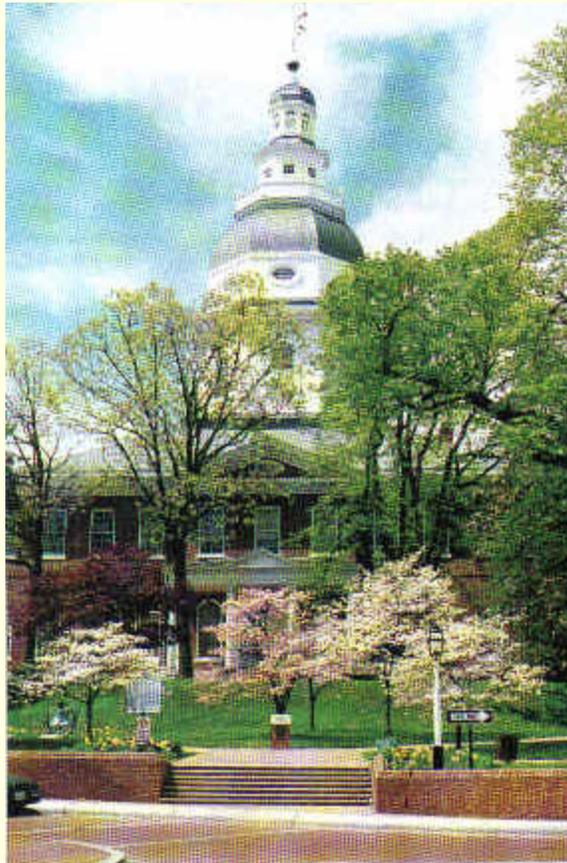


2007 Legislative Summary



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Legislative Summary 2007

These documents represent MACo's 2007 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. Each bill listed will have active web links to relevant information on the Maryland General Assembly website, which may be useful for those seeking additional information or the actual bill text.

In addition, we have included material covering several significant issues from the legislative session, with special "Focus" 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. Once again, the statistics reinforce MACo's effect on the legislative process, and the value of the prioritization efforts 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

Business Affairs

HB 875/SB 423 (Chapter 555/554)

State Local Government - Street Lighting Equipment

Bill Description: Requires an electric company to sell to a local government, upon written request and for fair market value, some or all of its existing street lighting equipment that is located within the local jurisdiction. The government would then assume maintenance responsibilities for the lighting equipment. Any dispute between a local government and an electric company under the bill has to be submitted to the Public Service Commission (PSC) for resolution. Effective June 1, 2007.

Community & Economic Development

HB 183 (Chapter 593)

Real Property – Maryland Homeowners Association Act – Enforcement Authority Division of Consumer Protection

Bill Description: Provides that violations of the Maryland Homeowners Association Act are within the scope of the enforcement duties of the Division of Consumer Protection of the Office of the Attorney General. Authorizes a county or municipality to adopt a consumer protection law, ordinance, or regulation for violations of the Maryland Homeowners Association Act provided that: (1) it is within the scope of its authority; and (2) is not inconsistent with Consumer Protection Act provisions. Requires a county or municipality, for laws, ordinances, or regulations that are expressly applicable to a development, to forward a copy of it within 30 days of its effective to the Homeowners Association Depository in the Office of the Clerk of the Court in the county where the development is located. Effective October 1, 2007.

HB 423 (Chapter 603)

Workforce Housing Grant Program – Fund Establishment – Administrative Clarifications

Bill Description: Establishes a Workforce Housing Fund within the Department of Housing and Community Development (DHCD) to operate and provide funds for the Workforce Housing Grant Program. Authorizes DHCD, when determining whether a local government has met the Program's match requirement, to consider the local government's: (1) Program administrative costs; and (2) financial commitments to other affordable or workforce housing initiatives. Authorizes a qualifying local government to request that funds it receives through the Program or its own match be expended by DECH through one of DHCD's other existing housing programs. Makes several other alterations and clarifications to the administration of the Program. Effective October 1, 2007.

MACo Position: MACo supported the legislation that created the Workforce Housing Grant Program (HB 1160 of 2006) as it was a voluntary program and did not constitute an unfunded mandate. MACo also supported this bill as it creates a stable funding source for the Program (although the State must make an initial expenditure to start the Program) and makes administrative clarifications that will encourage greater county participation in the Program.

HB 784/SB 710 (Chapters 300, 299)

Affordable Housing – Enabling Authority for Counties and Municipalities

Bill Description: Authorizes a county or municipality, in order to support affordable housing programs, to: (1) establish local trust funds or provide for the appropriation of funds; (2) enact legislation that restricts cost and resale prices and requires development of affordable housing units as part of any subdivision in return for added density; (3) provide land or property from the county or municipality's inventory; and (4) support PILOT (payment in lieu of taxes) programs to encourage construction of affordable housing. Effective October 1, 2007.

MACo Position: MACo supported the bills as they expand the methods and tools counties may use to provide affordable housing.

SB 3 (Chapter 305)

Real Property – Condemnation – Procedures and Compensation

Bill Description: Increases the relocation and reestablishment compensation limits for businesses, farms, tenants, and certain homeowners. Limits the authorization period of condemnation to four years. Requires that at least 30 days before the filing of a condemnation of private land that is being used by a business or farm, the condemning authority must contact the business or farm owner and negotiate in good faith regarding a relocation plan for the business or farm. Effective July 1, 2007.

For further detail, **See Focus On: Eminent Domain on page 21.**

MACo Position: MACo opposed the bill as originally introduced as it imposed unreasonable restrictions on the use of eminent domain and created new and subjective forms of compensation, including compensation for business goodwill and attorney fees. MACo supported the compensation approach in the amended version of SB 3, but only if amendments were included that reduced the reauthorization period from five years to four years and applied certain provisions of the bill prospectively. The General Assembly accepted the proposed MACo amendments.

Education

HB 164 (Chapter 223)

Education – Relocatable Classrooms – Indoor Air Quality Standards

Bill Description: Requires the Board of Public Works, in consultation with the Department of General Services and the Department of Housing and Community Development to adopt regulations to establish standards and specifications to enhance the indoor air quality of relocatable classrooms purchased or leased using State or local funds. Effective October 1, 2007.

SB 57 (Chapter 309)

Education – Teachers – State and Local Aid Program for Certification by the National Board for Professional Teaching Standards

Bill Description: Expands the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards to include renewals of certification and up to one retake of an unsuccessful entry on the National Board for Professional Teaching Standards assessment. Increases the maximum number of teachers that the State Board of Education may select to participate in the Program from 750 to 1,000. Extends the sunset of the Program to June 30, 2013. Effective October 1, 2007.

SB 9 (Chapter 306)

State Department of Education and Department of Health and Mental Hygiene – Student Surveys - Workgroup

Bill Description: Requires the State Department of Education (MSDE) to establish procedures for the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System survey. Authorizes MSDE to omit up to one-third of the survey questions if MSDE considers their content

inappropriate. Requires local school systems to obtain parental consent before administering the survey. Requires MSDE and the Department of Health and Mental Hygiene to jointly establish a workgroup to evaluate and reduce: (1) the impact on schools of administering various health-related surveys to students; and (2) the impact on students of taking various health-related surveys with similar or overlapping content. Requires the Workgroup to submit a report by September 1, 2008. Effective July 1, 2007. Sunsets June 30, 2009.

HB 619 (Chapter 418)

Public Schools – County Superintendent of Schools – Notification of Criminal Charges

Bill Description: Requires a county superintendent of schools to immediately notify the county board of education in writing of any criminal charges that are punishable by a period of incarceration brought against the county superintendent. Failure to do so is a misdemeanor. Authorizes a county board to suspend the county superintendent with pay until final disposition of the criminal charges. Effective October 1, 2007.

HB 1199 (Chapter 641)

Education – Maryland Meals for Achievement In-Classroom Breakfast Program – Eligibility

Bill Description: Authorizes the General Assembly to consider expanding the eligibility criteria for the Maryland Meals for Achievement In-Classroom Breakfast Program, provided that the Governor provides full funding in the State budget for all eligible schools. Effective October 1, 2007.

SB 128 (Chapter 12)

Education – Public Schools – Constitution Day and Citizenship Day and Civic Responsibility for Students

Bill Description: Authorizes each county board of education to establish a program to be held on each September 17 (Constitution Day and Citizenship Day) to teach students about the United States and Maryland Constitutions. Effective October 1, 2007.

SB 132 (Chapter 312)

Education – Student Discipline – Review of Local Policies and Procedures

Bill Description: Requires the State Department of Education (MSDE) to review the policies and procedures of each county board of education relating to student discipline, student suspension, and student expulsion in public schools. The review must include the suspension rate in the county, the reasons for suspensions in the county, and the efficacy of positive behavioral interventions and support programs if utilized in the county. Requires MSDE to submit a report to the Governor and General Assembly by December 31, 2007. Effective October 1, 2007.

SB 907 (Chapter 652)

Budget Accountability – Master Plans and Evaluations

Bill Description: Requires each county board of education to submit a new comprehensive master plan to the State Department of Education (MSDE) by October 15, 2010. Establishes an annual schedule for each county board to submit a plan update for review and approval by the State Superintendent of Schools. Requires MSDE to submit an interim report on the impact of increased State education aid on student and

school performance by December 31, 2007. Requires the General Assembly, during the 2009 Session, to review MSDE's final report on State education aid to make certain determinations, including whether certain provisions in the master plan requirement should allow for differentiation among local education agencies. Effective June 1, 2007, with one section effective July 1, 2009.

SB 986 (Chapter 585)

Creation of a State Debt – Aging School Program – Qualified Zone Academy Bonds

Bill Description: Authorizes the Board of Public Works to issue up to \$11.1 million in qualified zone academy bonds. Bond proceeds shall be expended, on approval by the Board, as a grant to the Interagency Committee on School Construction for the renovation and repair of qualified zone academies under the Aging School Program. Specifies that \$5.5 million of the bond proceeds shall be allocated to local education agencies under the statutory Aging Schools allocation formula. Effective June 1, 2007.

Elections

HB 18/SB 392 (Chapter 548/547)

Election Law - Voting Systems - Voter-Verifiable Paper Records

Bill Description: Requires that a voting system selected and certified by the State Board of Elections (SBE) produce or require the use of a voter-verified paper record and provide access to disabled individuals equivalent to that provided to individuals who are not disabled. Election procedures and requirements relating to voter-verified paper records and the State's voting system are set forth. The bill applies to each election occurring on or after March 1, 2010. The bill takes effect July 1, 2007, but all provisions are contingent on the appropriation of sufficient general, special, or federal funds in the State budget to implement the bill, no later than fiscal 2009.

MACo Position: MACo supported the legislation contingent on amendments, stating opposition to any requirement that counties be compelled to pay for the purchase of another state-mandated voting system. The final version of the legislation does not specify the eventual source of the funds required to procure a new compliant system.

SB 1 (Chapter 513)

Elective Franchise - Early Voting and Polling Places

Bill Description: Places an amendment to the Maryland Constitution before the voters for the 2008 general election, seeking to enable "early voting" in days leading up to the designated election day, and enabling absentee voting for any voter requesting such a ballot, regardless of reason. Effective upon ratification by voters in 2008.

SB 488 (Chapter 159)

Voter Registration Protection Act

Bill Description: Allows convicted felons, who have completed their sentence, to register to vote in Maryland. The bill applies to an individual convicted of any crime, with the exception of buying or selling votes, to register to vote if not actually serving a court-ordered sentence of imprisonment, including any term of

parole or probation, for a felony conviction. Effective July 1, 2007.

Employee Benefits

HB 311/SB 243 (Chapter 139/138)

State Retirement and Pension System - Transfer of Service Credit

Bill Description: Allows an individual who transfers from a State or local pension system into one of the State systems, but does not petition to transfer prior service credit into the State system within the one-year window allowed under current law, to request a waiver of the one-year requirement from the executive director of the State Retirement Agency. Also allows a limited number of employees in a county that participates in the Employees' Pension System to transfer prior eligibility service from the State's contributory pension system to the noncontributory system. The bill takes effect July 1, 2007, however, the provisions for local employee transfers terminate December 31, 2007.

SB 583 (Chapter 337)

Alternate Contributory Pension Selection - Clarifications

Bill Description: Allows certain state system members (including those under local government participating units) who complete at least one year of service under Alternate Contributory Pension Selection and who have a vested account from prior service under a different benefit structure to combine their current and prior service credit. The bill creates a modest increase in liabilities for participating governmental units. Effective July 1, 2007.

Environment

SB 237 (Chapter 137)

Natural Resources – Open Air Burning Limitations – Application

Bill description: Exempting certain fire personnel in Wicomico, Worcester, and Somerset counties from a prohibition against open air burning at certain times and places. Effective June 1, 2007.

HB 488 (Chapter 239)

Environment – Statewide Electronics Recycling Program

Bill Description: Removes the sunset date on the Statewide Electronics Recycling Program. Expands the Program to include both computers and televisions/monitor screens. Increases the initial Program registration fee from \$5,000 to \$10,000 and creates certain fines for retailers who sell computers or televisions/monitor screens made by manufacturers who have not complied with the Program's requirements. Provides that any fines and penalties collected for a violation of the Program's requirements are placed in the Statewide Recycling Trust Fund and repeals a requirement that any unspent or unencumbered Fund balance over \$2 million reverts to the State general fund. Effective October 1, 2007.

MACo Position: MACo supported the original 2005 legislation that created the Statewide Computer Recycling Program as a pilot program (Chapter 384). The Program represents a collaborative effort between the State, local governments, electronics manufacturers, and the environmental community. The Program provides grants to local governments for costs related to the implementation of county

or regional electronics recycling programs.

MACo also supported this bill, as it represents an expansion of the original Program.

HB 588 (Chapter 614)

Natural Resources – Forest Conservation – Net Tract Area

Bill Description: Provides that for certain purposes and certain tracts of land, the term “net tract area” includes forested areas within a floodplain or wetland if a perpetual conservation easement is placed on the forested areas at the time the plat of the tract is recorded. Provides that the bill may not be construed to prevent a person who submits a forest conservation plan to the State or a local authority before July 1, 2007 and has not been issued a building permit from revising the net tract area for a tract of land of at least 350 acres, of which at least 15 percent is within the boundaries of a 100-year floodplain or wetland, to include the forested area within the boundaries of the 100-year floodplain or wetland. Effective July 1, 2007. Sunsets February 29, 2008.

HB 786/SB 784 (Chapters 122, 121)

Stormwater Management Act of 2007

Bill Description: Requires the Department of the Environment (MDE) to establish regulations and a model ordinance that requires: (1) the implementation of environmental site design (ESD) to the maximum extent practicable in stormwater management projects; (2) the removal of planning and zoning impediments to ESD implementation; and (3) developers to demonstrate that ESD has been implemented to the maximum extent practicable and standard best management practices have been used only where absolutely necessary. Requires MDE to specify that all stormwater management programs meet certain criteria. Requires MDE to establish a process for approving grading and sediment control plans and stormwater management plans that takes into account the cumulative impacts of both plans. Requires MDE to evaluate options for a stormwater fee system and submit a report to the General Assembly by December 1, 2007. Effective October 1, 2007.

MACo Position: MACo originally opposed HB 786/SB 784. As introduced, the bills required the implementation of ESD in stormwater management projects to achieve environmental impact reductions not currently possible with existing technology. MDE- proposed significant amendments to the bill, including the revising of its model ordinance and stormwater regulations to focus on ESD. MACo agreed to support the bill but only if the MDE amendments, certain amendments proposed by Environment Maryland, and an amendment that requires MDE to consult with concerned parties during the ordinance and regulation drafting process, including local governments, were adopted. The General Assembly accepted all of the proposed amendments, including MACo’s.

HB 893 (Chapter 257)

Bay Restoration Fund – Wastewater Treatment Facilities Upgrades – Reporting Requirements

Bill Description: Requires the Department of the Environment and the Department of Planning to jointly report on the impact that a wastewater treatment facility that was upgraded to enhanced nutrient removal the calendar year before the previous calendar year with Bay Restoration funds had on growth within the municipality or county where the facility is located. Requires counties and municipalities to provide certain data for the preparation of the report, including the number of permits issued for residential and commercial development to be served by the upgraded facility. Effective October 1, 2007.

HB 1291 (Chapter 468)

Solid Waste Regulation – Criminal Penalties

Bill Description: Applies the enforcement process for water pollution control violations (including injunctive relief, civil penalties, and criminal penalties) to solid waste violations. Certain violations, including those involving sewage sludge or infectious waste, are exempted. Effective October 1, 2007.

SB 553 (Chapter 161)

Environment – Landfills – Termination Date

Bill Description: Prohibits the Secretary of the Environment from issuing a permit for the operation of a landfill within 4 miles of Unicorn Lake in Queen Anne’s County, within 1 mile of the Piscataway Creek, a Piscataway Creek tributary, or the Mattawoman Creek, or within 1 mile of any other tributary in Prince George’s County that flows directly or indirectly into the Potomac River. Removes a pre-existing sunset date on the prohibition. Requires the Department of the Environment to report to the General Assembly by January 1, 2008, on appropriate methods to authorize a county to remove a proposed landfill from a county plan. Effective October 1, 2007.

SB 970 (Chapter 365)

Environment – Water Appropriation Permits – Penalties

Bill Description: Establishes a civil penalty for water appropriations violations. Authorizes the Department of the Environment (MDE) to hold hearings and issue corrective orders for water appropriations violations. Alters the existing criminal penalties for water appropriations violations so that they are identical to the criminal penalties for water pollution violations. Requires that any penalties or fines collected by a court be deposited into the Maryland Clean Water Fund. Alters the purposes and use of the Fund. Exempts certain non-public water systems from needing a water appropriation permit. Effective October 1, 2007.

MACo Position: MACo has traditionally opposed the State imposition of administrative and civil penalties on local governments, but recently altered its position with respect to civil penalties. MACo supported the bill but requested two amendments – (1) prior to bringing a civil action against a local government, MDE should meet and consult with the local government to seek an alternative resolution; and (2) a local government should not be found liable in a civil action for the acts of persons over whom the local government has no direct control.

MDE opposed both amendments, arguing that local governments are no different from any other violator. The bill passed the Senate with the meeting requirement amendment. In the House, MACo and MDE reached an agreement to keep the meeting requirement in the bill, but added language that prior consultation by MDE with the local government constitutes compliance with the meeting requirement.

Finance

HB 231 (Chapter 384)

Recordation Tax - Exemption for Transfers from a Government or Public Agency

Bill Description: Authorizes a local option exemption from the recordation tax for transactions granting a security interest in real property from the United States, the State, an agency of the State, or a political subdivision of the State. Effective July 1, 2007.

HB 436/SB 522 (Chapter 565/564)

Homestead Tax Credit - Eligibility Verification - Application

Bill Description: Requires homeowners to file a specified application with the State Department of Assessments and Taxation (SDAT) to qualify for the homestead tax credit. Administrative costs for the program will be billed to county governments. Effective October 1, 2007, though the provisions will be phased in over a 5-year period by SDAT.

MACo Position: MACo supported this legislation, recognizing the potential to identify many properties currently ineligible for the homestead credit, but receiving the benefits due to incorrect or outdated coding of property records. Limited efforts to address these problems have suggested the error rate among recipient properties may be substantial, and correcting them may yield millions in additional property tax revenues. Senate amendments (ultimately included in the final bill) required counties to pay for the program's administrative costs, and MACo's Legislative Committee voted to continue its support with this provision.

HB 755/SB 486 (Chapter 559/558)

Property Tax Credit - Replacement Home Purchased After Acquisition of Dwelling for Public Use

Bill Description: Authorizes local governments to grant a property tax credit for a property that is purchased as a replacement for a principal residence acquired either through condemnation or negotiation under the threat of condemnation for public use. The credit lasts for five years and may not exceed 100% of the property tax attributable to the eligible homestead assessment granted on the acquired dwelling in the first taxable year, and is then reduced by 20% in each subsequent year over the five-year life of the credit. The credit may not be granted if the property owner has been compensated for the increase in property taxes for the new dwelling. Effective June 1, 2007.

HB 942 /SB 332 (Chapter 116/115)

Maryland Green Building Council

Bill Description: Codifies the Maryland Green Building Council within the Department of General Services (DGS) to advise the Governor and the General Assembly on strategies for using green building technologies in State construction projects. These strategies and incentives could ultimately affect state-supported local projects including public school projects and detention centers. Effective July 1, 2007.

Government Liability & Courts

SB 440 (Chapter 330)

Mid-Shore Regional Council – Membership

Bill Description: Reduces the membership of the Mid-Shore Regional Council from nine members to six members. Provides that members may be county councilmembers or commissioners. Provides that the bylaws of the Council may provide for additional public membership on the Council. Effective October 1, 2007.

HB 303 (Chapter 231)

Tri-County Council for the Lower Eastern Shore of Maryland – Membership

Bill Description: Alters the membership of the Tri-County Council for the Lower Eastern Shore of Maryland to included the County Executive and four county council members of Wicomico County as voting members. Effective October 1, 2007.

HB 331 (Chapter 234)

Real Property – Electronic Recording Pilot Program

Bill Description: Authorizes the Administrative Office of the Courts, in collaboration with other members of the oversight committee of the Circuit Court Real Property Records Improvement Fund, to establish a pilot program for the electronic filing of land record instruments. Specifies the implementation, evaluation, and operating parameters of the pilot program. Requires the costs of the pilot program to be paid from the Circuit Court Real Property Records Improvement Fund. Provides that any instrument filed under the pilot program is as valid as a substantively identical paper instrument. Effective June 1, 2007.

HB 345/SB 625 (Chapters 42, 41)

Workers' Compensation Commission – Governmental Self-Insurance Groups – Investment

Bill Description: Requires the Workers' Compensation Commission to adopt regulations for governmental self-insurance groups that establish guidelines to govern the investment of surplus moneys not needed to meet current obligations in a manner that will ensure solvency of the Fund and timely payment of claims. Effective October 1, 2007.

HB 1117/SB 752 (Chapters 351, 350)

Workers' Compensation – Benefits for Dependents

Bill Description: Provides that if certain firefighters, law enforcement officers, or correctional officers are presumed to be entitled to workers' compensation benefits due to certain occupational diseases, then their dependents are also entitled to receive those benefits. Effective October 1, 2007.

MACo Position: MACo opposed the bills, arguing that the award to a claimant benefiting from the presumption is already generous and would create the situation where dependents of claimants benefiting from the occupational disease presumption would receive benefits more generous than those benefits provided to dependents of claimants who died in the line of duty. MACo also argued

that over time, “piecemeal” changes to the presumption have created several inequities in its application and that the presumption should be subject to a comprehensive review and update.

HB 1325 (Chapter 648)

Juvenile Law – Truancy Reduction Pilot Programs

Bill Description: Authorizes certain Circuit Administrative Judges to establish Truancy Reduction Pilot Programs in the juvenile courts of Harford and Prince George’s Counties. Authorizes the use of gifts or grants to implement the Pilot Programs. Authorizes certain juvenile courts to condition marking a charge set on participation of the defendant in a Pilot Program. Requires the Chief Judge of the Court of Appeals to submit an evaluation of each Pilot Program to the General Assembly by December 1, 2008. Modifies certain Pilot Program funding and termination provisions. Effective July 1, 2007.

Health

HB 359/SB 91 (Chapter 502/501)

Clean Indoor Air Act of 2007

Bill Description: Expands the locations in which individuals are not allowed to smoke to include most restaurants and bars. The bill includes a provision for waivers, which would delay the effect on specific establishments demonstrating economic losses anticipated, and does not affect certain private clubs. The bill does not preempt a local government from enacting and enforcing additional measures to reduce involuntary exposure to environmental tobacco smoke. Effective February 1, 2007.

SB 254 (Chapter 538)

Environment - Groundwater Contamination - Notification and Reimbursement of Costs

Bill Description: Modifies specified notification and reimbursement provisions relating to groundwater contamination to provide that the Maryland Department of the Environment (MDE) is responsible for providing the required notice. If MDE and a local health department agree, the local health department would continue to provide the notice, as required under current law. Reimbursement of notification costs from the party responsible for the contamination would be provided to either MDE or the local health department, as appropriate. Effective October 1, 2007.

MACo Position: MACo supported this bill, working with the three sponsors as a needed follow-up to legislation passed in 2005. Prior to this bill’s effect, this notification responsibility was placed upon Local Health Departments, representing an unworkable and unfunded mandate.

SB 351 (Chapter 147)

Forensic Laboratories - Standards and Oversight

Bill Description: This bill requires the Secretary of Health and Mental Hygiene to license, set standards and requirements for, and inspect forensic laboratories in Maryland. Licensure is required after December 31, 2011 in order for a person to offer or perform forensic analysis in Maryland.

MACo Bill Position: MACo opposed HB 879 as introduced in the House, but a number of MACo’s

concerns regarding overbroad application were addressed in bill amendments.

SB 746 (Chapter 182)

Swimming Pools – Automated External Defibrillator Programs – Study

Bill Description: Requires a study by the Maryland Institute for Emergency Medical Services Systems regarding external defibrillators, and assessing the potential requirement that they be placed in various publicly accessible facilities, including swimming pools and other recreation centers. The report is due by December 1, 2007.

MACo Position: MACo opposes the bill as introduced, which would have codified a requirement that all publicly accessible pools (with limited exceptions) maintain a certified defibrillator program, including equipment and trained staff.

SB 987 (Chapter 212)

Maryland HIV/AIDS Reporting Act

Bill Description: Repeals Maryland’s code-based HIV reporting system and establishes a name-based HIV reporting system. The bill is expected to put the State into compliance with federal requirements, enabling the State to retain substantial federal revenues. Emergency bill - effective upon signature.

Parks and Recreation

HB 1224 (Chapter 240)

Program Open Space - Use of Acquisition Funds

Bill Description: Allows the Department of Natural Resources (DNR) to use Program Open Space (POS) State acquisition funds such funds to eliminate hazards to health and safety (including the treatment and removal of hazardous materials) and to protect water quality by implementing environmental improvements (including shore erosion control measures and vegetated buffers). The cost to perform these activities may not exceed 10% of the purchase price of the land. Effective July 1, 2007.

MACo Position: MACo supported the bill, granting practical flexibility under the POS program to ensure safety and accessibility for certain POS acquisitions.

Planning and Zoning

HB 773 (Chapter 626)

Task Force on the Future for Growth and Development – Membership and Charge

Bill Description: Adds additional members to the Task Force on the Future for Growth and Development, including: the Secretary of Transportation; the Secretary of Housing and Community Development; the Chair of the Base Realignment and Closure Subcabinet; the Executive Director of the Rural Maryland Council; and three representatives from citizen organizations that address affordable housing, transportation, and Smart Growth. Expands the charge of the Task Force to include: (1) determining methods to assess

the cumulative impacts of proposed development on infrastructure; (2) determining the parameters and implementation for a State development plan, transportation plan, and housing plan; (3) identifying infrastructure needed for Smart Growth development and mechanisms to fund and maintain that infrastructure; and (4) serving as an advisory board to the Governor's Smart Growth Subcabinet. Extends the final reporting date of the Task Force to December 1, 2008. Effective July 1, 2007.

MACo Position: The Task Force was created as part of the compromise reached between MACo and MML over the annexation and municipal growth issue (HB 1141 of 2006). MACo originally opposed HB 773, citing the delicate negotiations and balance that was part of the Task Force's creation. Based on amendments added to the bill in the House, MACo supported the Senate. However the Senate further amended the bill and MACo withdrew its support. MACo believed that the House would not accept the Senate amendments but the House subsequently decided to concur with the amendments, resulting in the bill's passage.

HB 1041 (Chapter 448)

Maryland Agricultural Land Preservation Fund – Foundation Grants

Bill Description: Authorizes the Maryland Agricultural Land Preservation Foundation (MALPF) to provide grants to counties to facilitate the Critical Farms Program, the purchase of easements under a county installment purchase agreement program, and the payment of the principal and interest on bonds issued to purchase agricultural preservation easements. Provides that MALPF grants may not be used to fund county land preservation programs or pledged to secure county-issued bonds. Authorizes MALPF to provide grants to the Maryland Agricultural and Resource-Based Industry Development Corporation for certain purposes. Prohibits the use of money from the Maryland Agricultural Land Preservation Fund for certain purposes. Effective October 1, 2007.

HB 1175 (Chapter 267)

Counties – Purchase of Development Rights

Bill Description: Authorizes Anne Arundel, Baltimore, Howard, and Prince George's Counties to enter into agreements to purchase development rights. Authorizes a county to set the terms and duration of the agreement, subject to certain exceptions. Provides that a county may undertake a payment obligation to an agreement without regard to any limitations contained in its charter or public general or local laws. Provides that a payment obligation to an agreement is a general obligation of the county to which its full faith and credit is pledged and may not be subject to an annual appropriation by the county. Exempts an agreement from taxation. Effective June 1, 2007.

MACo Position: MACo supported HB 1175 as it enhances the ability of certain counties to purchase agricultural preservation easement or other forms of easements that restrict development and allows them to make use of innovative methods to purchase easements, including through the use of installment purchase agreements.

HB 1331 (Chapter 650)

Maryland Agricultural Land Preservation Foundation – Removal of Districts

Bill Description: Alters the agricultural preservation easement application process for the Maryland Land Preservation Foundation program to phase out agricultural districts. Local governments retain the authority

to use agricultural districts. Effective July 1, 2007.

HB 1354 (Chapter 476)

Certification of County Priority Preservation Areas

Bill Description: Requires local policies, ordinances, regulations, and procedures that govern priority preservation areas to support the ability of working farms in the priority preservation area (PPA) to engage in normal agricultural activities and be large enough to support normal agricultural and forestry activities in conjunction with the amount of development permitted by the county in the priority preservation area. Requires a county's comprehensive plan priority preservation element to include a county's strategy to support normal agricultural and forestry activities in conjunction with the amount of development permitted in the PPA. Effective October 1, 2007.

MACo Position: MACo initially opposed the bill due to concerns that the Maryland Agricultural Land Preservation Foundation (MALPF) would interpret the bill's requirements in a restrictive fashion. After MALPF met with the concerned counties and resolved the issue, MACo dropped its opposition.

SB 1030 (Chapter 221)

Critical Areas – Applications for Variances – Local Jurisdictions

Bill Description: Clarifies that certain provisions of critical areas law apply to a local jurisdiction during the consideration, processing, and decision on an application for a variance under the Chesapeake Bay and Atlantic Coastal Bays Critical Area Program. Applies the provisions of the bill retroactively, with a certain exception. Effective June 1, 2007.

Public Ethics

HB 1242 (Chapter 643)

Open Meetings Act

Bill Description: Provides that if the State Open Meetings Compliance Board receives a complaint about a public body that no longer exists, the Board shall send the complaint to the official or entity that appointed the public body and that official or entity must comply with the response requirements to the extent feasible. Authorizes a public body to post meeting notices on an Internet website ordinarily used by the public body to provide information to the public. Effective July 1, 2007.

Public Safety and Corrections

HB 103 (Chapter 590)

Public Safety – Eyewitness Identification – Written Policies

Bill Description: Requires each law enforcement agency in the State to adopt written policies relating to eyewitness identification that comply with the United States Department of Justice standards on obtaining accurate eyewitness identification by December 1, 2007. Requires each law enforcement agency to file a copy of the policy with the Department of State Police by February 1, 2008. Effective October 1, 2007.

HB 216 (Chapter 227)

HIV Testing – Exposure – Forensic Scientist

Bill Description: Authorizes a forensic scientist that works under the direction of a law enforcement agency to be tested for HIV if the scientist may have been exposed to potentially contaminated blood or bodily fluids. Effective October 1, 2007.

SB 685 (Chapter 178)

Criminal Procedure – Pretrial Release – Posting of Bond Without Appearance of Defendant

Bill Description: Authorizes a circuit court county administrative judge or the Chief Judge of the District Court to authorize a defendant to post bond by electronic means or hand delivery of the relevant documentation without appearing before the commissioner or judge, provided that the defendant had appeared in person before the commissioner or judge prior. Effective October 1, 2007.

HB 689 (Chapter 620)

Maryland Emergency Management Assistance Compact – Emergency Responders

Bill Description: Defines an “emergency responder” under the Maryland Emergency Management Assistance Compact to mean an individual who is sent or directed by a party jurisdiction in response to a request for assistance by another party jurisdiction, including: (1) career and volunteer firefighters; (2) career or volunteer emergency medical services providers; (3) career or volunteer rescue squad members; (4) law enforcement officers; and (5) county employees who are performing an emergency support function. Effective October 1, 2007.

MACo Position: MACo supported the bill because it provides needed clarification regarding the participation of certain emergency responders or law enforcement officers under the Compact. Under prior law, it was not clear if the protections and indemnification provision of the Compact applied to emergency responders or law enforcement officers that were not considered officially part of a local government that participates in the Compact. The bill extends the Compact’s full protections to those individuals.

HB 740 (Chapter 431)

Courts – Service of Process – Fees Collected by Sheriff

Bill Description: Updates certain service of process fees collected by sheriffs. Provides that if a sheriff is unable to serve a paper, 50% of the fee shall be refunded to the party requesting the service, except for summary ejectment papers where 100% of the fee is refunded. Prohibits a sheriff from collecting a fee for the service of a paper from a housing authority or a summons for a law enforcement officer to appear as a witness in a criminal case. Effective October 1, 2007.

MACo Position: MACo worked on amendments to the bill while it was in the House but did not take a position on the bill until it reached the Senate, at which time MACo supported the bill. The proposed amendments, which the House adopted, represented a consensus that was reached between MACo, the Maryland Sheriff’s Association, Baltimore City, and landlord interests. As amended, the bill provides needed increases to certain service of process fees and clarifications to the service of process law.

HB 1067 (Chapter 451)

Local Law Enforcement Agencies – Disposal of Personal Property

Bill Description: Requires a local law enforcement agency to hold personal property that comes into its possession until the agency determines that the property is no longer needed in connection with a prosecution or is no longer relevant to the local law enforcement agency. Exempts certain types of personal property from the holding requirement. Establishes notification, reclamation, and disposal procedures for certain personal property held by local law enforcement agencies. Effective October 1, 2007.

HB 1253 (Chapter 97)

HIV Testing – Prohibited Exposure – Forensic Scientists

Bill Description: Authorizes a forensic scientist who is working under the direction of a law enforcement agency who may be exposed to HIV under certain conditions while acting in the performance of duty to request the court to order an HIV test for the person responsible for the prohibited exposure. Effective October 1, 2007.

HB 1367 (Chapter 280)

Vehicle Laws – Emergency Vehicles – Green Flashing Lights

Bill Description: Authorizes a stationary emergency vehicle serving as a mobile command unit to be equipped with or display a flashing, blinking, or oscillating green light or signal device to designate the vehicle as a command post. Effective October 1, 2007.

SB 1027 (Chapter 220)

Vehicle Laws – Race-Based Traffic Stops – Sunset Extension and Reporting Requirements

Bill Description: Extends the termination date for the collection of certain traffic stop data by law enforcement agencies, including the reason for the stop and the race or ethnicity of the driver to December 31, 2009. Extends the due date of a final report on the collected data by the Maryland Justice Analysis Center to August 31, 2010. Effective October 1, 2007.

Taxes and Revenues

HB 35 (Chapter 587)

Income Tax - Expensing of Section 179 Property

Bill Description: Decouples Maryland state income tax from the increased expensing allowed under Section 179 of the Internal Revenue Code as enacted by the federal Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA). This clarification affects the calculation of taxable income, which is the basis for county income taxes. Effective effect July 1, 2007 and applies to tax year 2007 and beyond.

HB 327/SB 705 (Chapter 573/572)

Property Tax - Credit for Property Used as a Publicly Sponsored Business Incubator

Bill Description: authorizes local governments to provide a local property tax credit for property that is used

as a business incubator if the State, a county, a municipality, a specified tax exempt organization, a public institution of higher education, or an agency or instrumentality of the same: (1) owns, controls, or leases the space that is used as a business incubator; (2) provides at least 50% of the funding received by the business incubator from all sources not including rents received from incubator tenant firms; or (3) is represented on the governance board that authorizes the annual budget of the business incubator. Effective June 1, 2007.

MACo Position: MACo supported the bill, seeking amendments to convert the originally proposed tax exemption to a local option property tax credit. The bill was amended to reflect that local option, and no longer poses a mandate on local governments.

HB 1422 (Chapter 107)

Property Tax - Exemptions - Bus Passenger Shelters

Bill Description: Provides a property tax exemption for bus passenger shelters constructed by a private entity under an agreement with the State, a local government, or a public senior higher education institution. Effective June 1, 2007

Transportation and Public Works

SB 699 (Chapter 571)

State Highway Administration - Protection of Highway Construction and Maintenance Workers

Bill Description: Requires the State Highway Administration (SHA) to develop procedures to enhance the safety of construction, maintenance, utility, and other highway workers working on an expressway or controlled access highway with a speed limit of 45 miles per hour or more. SHA, the Maryland Transportation Authority (MdTA), or the appropriate local jurisdiction must incorporate such procedures into the project planning and construction phase of a proposed expressway or controlled access highway project. Effective October 1, 2007.

MACo Position: MACo opposed a similar bill, HB 1096, with concerns that it may pose a series of inappropriate mandates on a wide range of local road projects. SB 699, after being amended, is a far narrower constraint, and deals principally with controlled-access highway projects, rather than the entire range of local roadways under county control.

EMINENT DOMAIN

The General Assembly passed an eminent domain bill (SB 3) after MACo and MML reached an agreement with the bill's sponsor, Senator James DeGrange; Baltimore City; and the Maryland Retailer's Association. As passed, SB 3 increases the existing relocation and reestablishment compensation available to businesses, farms, homeowners, and tenants. The bill also establishes a 4-year time limit for condemnation authorizations and requires a condemning authority to meet with a business or farm owner at least 30 days before filing a condemnation action and negotiate in good faith a relocation plan.

The United States Supreme Court's decision in the case of *Kelo vs. City of New London* created national interest in eminent domain. In Maryland, 2004 legislation created the Task Force on Business Owner Compensation in Condemnation Proceedings, which studied both the use of eminent domain and the compensation provided to small businesses. The Task Force published its findings and recommendations in a 2005 report. Because of the *Kelo* decision and the Task Force report, the General Assembly considered approximately 50 eminent domain bills during the 2006 and 2007 Sessions. Some bills were designed to restrict the use of eminent domain, while others increased the level of compensation available to property owners and businesses.

MACo has argued for the past two years against placing unreasonable restrictions on the use of eminent domain. With respect to compensation, MACo has argued that the proper way to increase compensation for business owners is to increase the existing compensation caps for relocation and reestablishment expenses. MACo has opposed the creation of new categories of compensation such as business goodwill or attorney fees, arguing that they are speculative and would lead to an increase in litigation.

MACo opposed SB 3 as introduced because it contained compensation provisions for goodwill, lost income, and attorney fees. The bill also would have created new and complicated requirements for eminent domain, such as the right of a landowner or a landowner's successor in interest to repurchase land seized through eminent domain if the project or use for which the land was seized ceases, and subjected takings to judicial review.

MACo supported SB 3 as amended and believes the bill addresses the compensation issues raised by homeowners, businesses, farms, and tenants.

Focus On:
SCHOOL CONSTRUCTION

The Maryland General Assembly included \$400 million for public school construction funding in the FY 2008 capital budget (HB 51). The \$400 million exceeds last year's record high of \$323 million in funding. MACo made the \$400 million goal one of its legislative priorities for the 2007 Session.

In the 2005 Session, the State funded the first \$250 million installment in its 8-year commitment to invest \$2 billion in school construction and renovation. This commitment was articulated in the enacted School Facilities Act of 2004. However, the State commitment in that Act only funds minimum needs and did not envision the rapidly escalating construction costs that have significantly reduced the buying power of each subsequent \$250 million annual installment.

During the 2006 Session, recognizing the impact of unanticipated construction inflation and the need to reimburse counties for forward funding school construction and renovation, MACo urged a total FY 2007 appropriation of \$400 million. As introduced, the proposed FY 2007 capital budget included funding for \$281 million for public school renovation and construction projects, which the General Assembly raised to \$323 million.

For the 2007 Session, MACo again supported a \$400 million authorization due to the fact that the State had not reached that goal during the prior year and that construction costs inflation continued to grow rapidly. Governor Martin O'Malley also supported the \$400 million goal and included that amount in the proposed FY 2008 capital budget. Out of the \$400 million, \$388.2 million is in the form of general obligation bonds, \$11.8 million comes from school construction funds that have reverted to the Contingency Fund, and \$2.4 million is special fund PAYGO transferred from the Maryland Stadium Authority.

Initially, House leaders publicly supported the goal while Senate leaders expressed reservations, citing capital needs for higher education. Despite such reservations, both the Senate and House budget committees ultimately supported the \$400 million funding number. However, the two houses supported different distribution methods. The Senate suggested that the Interagency Committee on School Construction should distribute the additional funding while the House relied on a multi-step formula to determine the extra amount of funding each county should receive. In the end, the capital budget conference committee agreed to the House methodology, although minor adjustments were made to the funding amounts each county received.

MACo Legislative Statistics, 1993-2007

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
# OF BILLS INTRODUCED BY GENERAL ASSEMBLY	2598	2592	2294	2299	2385	2227	2049	2347	2408	2427	1959	2482	2632	2856	2480
# OF BILLS PASSED BY GENERAL ASSEMBLY	748	911	788	803	899	901	830	884	941	918	629	851	826	901	707
# OF BILLS PRESENTED TO LEGISLATIVE COMMITTEE	165	127	125	127	115	95	87	107	86	78	87	110	93	172	94
% OF TOTAL BILLS INTRODUCED BY GENERAL ASSEMBLY	6%	5%	5%	5%	5%	4%	4%	5%	4%	3%	4%	4%	3%	6%	4%
# OF BILLS COMMITTEE TOOK POSITION ON	146	111	72	80	61	60	52	58	56	51	53	68	56	88	58
% OF BILLS PRESENTED TO LEGISLATIVE COMMITTEE	88%	87%	57%	63%	53%	65%	60%	54%	64%	65%	61%	62%	60%	51%	62%
# OF BILLS ACTION TAKEN W/O PRIOR LEGISLATIVE COMMITTEE APPROVAL	-	-	4	7	3	3	3	12	6	4	3	1	1	13	3
# OF BILLS SUPPORTED	66	48	44	51	38	40	38	55	42	31	32	49	31	54	38
# OF BILLS OPPOSED	57	38	29	29	23	23	17	15	20	24	24	20	26	47	23
# OF BILLS NO POSITION TAKEN	23	41	48	47	54	35	35	46	31	27	29	32	37	84	36

Measuring MACo's Success for 2007

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

MACo Supported	
Bill Passed	18
<i>Bill passed with amds eliminating support</i>	0
<i>Bill Failed</i>	8
Success Rate	69%

MACo Supported only with requested Amendments	
Bill passed w/MACo amendments	6
Bill failed	3
<i>Bill passed without MACo amendments</i>	3
Success Rate	75%

MACo Opposed	
Bill Failed	17
Bill passed w/amds acceptable to MACo	4
<i>Bill passed despite MACo objections</i>	2
Success Rate	91%

MACo's 2007 Overall Success Rate = 48/61 = 78%