

LEGISLATIVE SUMMARY 2006

These documents represent MACo's 2006 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 msanderson@mdcounties.org or call him at (410) 269-0043.

COMMUNITY & ECONOMIC DEVELOPMENT

HB 960 (Chapter 596)

Housing Authorities – Entities to Undertake Housing Projects

Bill Description: Expands the power of housing authorities to establish and control not-for-profit entities, including corporations and limited liability companies, that may own, operate, and take steps necessary or convenient to develop or otherwise undertake housing projects in the authority's area of operation. Effective July 1, 2006.

HB 1160 (Chapter 483)

Workforce Housing Grant Program – Establishment

Bill Description: Establishes a Workforce Housing Grant Program within the Department of Housing and Community Development that provides flexible capital funds to qualifying local governments for development costs of workforce housing. In order to qualify, a local government must: (1) have a workforce housing element in its comprehensive plan or a 5-year consolidate plan approved by the United States Department of Housing and Urban Development; (2) be able to provide a dollar-for-dollar match for any program funds it receives; and (3) meet certain other criteria. Funding for the program shall be as provided in the State budget. Effective October 1, 2006.

MACo Position: Last session MACo opposed House Bill 880, which would have required counties to create a workforce housing element in their comprehensive plans. MACo agreed with the bill's goal of promoting workforce housing, but argued that the bill attacked local land use autonomy and imposed an unfunded mandate on local

governments. The bill's sponsor agreed to work with MACo and the General Assembly did not vote on the bill.

The sponsor introduced House Bill 1160, which addressed MACo's concerns by removing the unfunded mandate and making the workforce housing element optional. Consequently, MACo supported the legislation.

SB 485 (Chapter 135)

Maryland Building Performance Standards – Exemption in Certain Counties for Agricultural Buildings Used for Agritourism

Bill Description: In certain counties, exempts agricultural buildings for which agritourism is an intended subordinate use from the Maryland Building Performance Standards. Specifies that in certain counties existing agricultural buildings used for agritourism are not considered a change of occupancy that requires a building permit if the subordinate use of agritourism meets certain requirements. Applies to Calvert, Charles, Dorchester, Frederick, Harford, Prince George's, Saint Mary's, Somerset, and Talbot counties. Also encourages the University of Maryland, through the Maryland Cooperative Extension Services, to develop an educational program that focuses on liability issues for farmers that have farms engaged in agritourism. Effective October 1, 2006.

EDUCATION

HB 133 (Chapter 298)

Education – Maryland Infants and Toddlers Program – Grants – Funding

Bill Description: Requires the Governor to include in the annual budget bill an appropriation for the Program in an amount not less than the amount of the appropriation for the Program as enacted by the General Assembly for the prior fiscal year. Prior to this bill, funding for this program was discretionary. Also repeals certain obsolete provisions of law. Effective July 1, 2006.

HB 533 (Chapter 330)

Community Colleges – State Funding – Size Factor Component

Bill Description: Provides that beginning with the first fiscal year that a county board of community college trustees or board of regional community college trustees no longer meets the eligibility requirement to receive funding based on the size factor component under the Senator John A. Cade Funding Formula, the board shall continue to receive a percentage of the size factor component it received in the last fiscal year the board was eligible, including: (1) 80% for the first fiscal year; (2) 60% for the second fiscal year; (3) 40% for the third fiscal year; (4) 20% for the fourth fiscal year; and (5) 0% for the fifth and each subsequent fiscal year. The distribution will come from any remaining funds available for the size factor component after funds have been distributed to boards that qualify for the size factor component. Effective July 1, 2006.

HB 586 (Chapters 333)

Community Colleges – Funding Formulas – Adjustment

Bill Description: Alters the computation of the State-operating fund per full-time equivalent student formula for community colleges and Baltimore City Community College. For community colleges, increases the existing amount from 25% of the State's

General Fund appropriation per full-time equivalent student to for 4-year public institutions of higher education in the State to 30%. For Baltimore City Community College, increases the existing amount from 66% of the State's General Fund appropriation per full-time equivalent student to the 4-year public institutions of higher education in the State to 71%. Both increases are incrementally phased in through FY 2013. Effective July 1, 2006.

HB 1130 (Chapter 380)

Education – Adult Education and Literacy Services – Funding

Bill Description: Requires the Governor to include an appropriation in the FY 2008 State budget equal to an increase of \$1.5 million over the FY 2007 appropriation for competitive grants for adult education and literacy services. Effective July 1, 2006.

HB 1200 (Chapters 203)

High Schools – Automated External Defibrillators Program – Requirements

Bill Description: Requires a county board of education to develop and implement the Automated Defibrillator Program for each high school in the county. The Maryland State Department of Education, in consultation with the Department of Health and Mental Hygiene, the Maryland State School Health Council, and the Maryland Institute for Emergency Medical Services Systems must adopt regulations that: (1) establish guidelines for periodic inspections and annual maintenance of the automated external defibrillators; and (2) assist county boards in carrying out the provisions of the legislation. Effective July 1, 2006.

HB 1380 (Chapter 494)

Libraries – County Library Capital Project Grants

Bill Description: Establishes a State Grant Program for County Public Library Capital Projects. The purpose of the Program is to analyze and support capital projects that address the library needs in the State. County public library systems may apply for the grants. Grants under the Program: (1) require a matching fund from any combination of county, municipal, or private sources; (2) may not exceed 50% of the total cost of the project; and (3) may not be for an amount less than \$20,000. Beginning in FY 2008 and for each fiscal year thereafter, the Governor must include in the annual operating or capital budget submission \$5 million for county library capital projects. Effective July 1, 2006.

HB 1432 (Chapters 397)

Education – Residential Boarding Education Programs – At-Risk Youth

Bill Description: Creates a Residential Boarding Education Program for At-Risk Youth within the Maryland State Department of Education. The program must provide remedial curriculum, tutoring, college preparation, health and mental services, community services opportunities, and a residential student life program for certain students who are deemed "at risk". County boards of education pay the Department an amount equal to 85% of the cost per pupil for each student who participates in the program. Starting in FY 2009, the Governor must include an annual budget appropriation to cover the transportation, administration, and boarding costs of the Program in the amount of \$2 to \$10 million, based on the number of students participating in the Program. Effective July 1, 2006.

SB 146 (Chapter 426)

Education – Task Force on School Safety

Bill Description: Creates a Task Force on School Safety. The purpose of the Task Force is to evaluate and make recommendations regarding various school security procedures and discipline methods. The Task Force consists of 19 members, including two representatives of the Maryland Association of Boards of Education and four public school teachers from different areas of the State, one of whom represents the Maryland State Teachers Association. The Task Force's report is due by December 1, 2007. Effective July 1, 2006. Sunsets December 31, 2007.

SB 432 (Chapter 252)

Primary and Secondary Education – School Facilities – Aging Schools Program – Grant Calculation

Bill Description: Alters the grant calculation to county boards of education under the Aging Schools Program by adding an annual inflation modifier. The modifier is based on the Consumer Price Index and will take effect in FY 2008. Effective July 1, 2006.

MACo Position: MACo supported the legislation. The Aging Schools Program has remained flat funded since 1998 and the inflation modifier would at least allow the Program's funding to more appropriately reflect and keep pace with increasing maintenance and repair costs.

SB 458 (Chapter 434)

Teacher Quality Act of 2006

Bill Description: Establishes a National Board Certified Teacher Pilot Program within the Maryland State Department of Education. The State Superintendent of Schools shall select five eligible schools within three public school systems to participate in the Program. An eligible school must have at least three teachers who are pursuing certification by the National Board for Professional Teaching Standards and intend to teach at the school for 3 years. The teachers shall be included in the State and Local Aid Program for Certification by the National Board of Professional Standards and the Department may reimburse the county board of education for the board's cost of employing one staff development teacher at an eligible school, not to exceed \$62,000 annually. Requires the State Board of Education to develop guidelines for an incentive program to encourage public school systems to adopt a yearlong support system for teachers, improve teacher retention during the first 5 years of service. The State Board must also consider the feasibility of using State-funded grants for the incentive program. Alters the eligibility of the Janet L. Hoffman Loan Assistance Repayment Program to include individuals who receive a resident teacher certificate from the Department after completing an alternative teaching preparation program approved by the State Superintendent. Requires the Department to conduct a study on the feasibility of awarding alternative teaching opportunity grants as tuition assistance grants to individuals who: (1) pursue a resident teacher certificate by enrolling in a resident teacher certificate partnership program; or (2) take course work at an eligible institution for the purpose of obtaining a teaching certificate while being employed by a county board of education for a paraprofessional position. Effective July 1, 2006.

SB 575 (Chapter 262)

Community Colleges – Cade Funding Formula – Grants for English for Speakers of Other Languages Programs

Bill Description: Raises the maximum amount of State grants that can be given to a community college English for Speakers of Other Languages (ESOL) program from \$2.5 million to \$6 million for any fiscal year. Effective June 1, 2006.

ELECTIONS

HB 1368 (Chapter 61)

Election Law - Voter Bill of Rights

Bill Description: Modifies and clarifies a variety of procedures governing the elections in 2006 and beyond. Requires use of electronic pollbook equipment, and specifies certain polling places for early voting in each county. Requires county Boards of Elections to locate polling places on or near certain college campuses. Specifies roles for the State Board of Elections, and certain procedures applicable to the Baltimore City Board of Elections. Emergency Bill, effective on date of veto override, April 10, 2006.

MACo Position: MACo was actively involved in opposing unfunded mandates for election equipment purchases and systems. HB 1368 included uncodified language to require the Governor to include funding for electronic pollbooks in future years' budgets, supported by State general funds (not to include "special funds" derived by billing counties, as had been seen in previous budget inclusions).

EMPLOYEE BENEFITS

SB 475 (Chapter 258)

Correctional Officers' Retirement System - Membership - Local Detention Center Officers

Bill Description: Authorizes county governments to "opt in" their correctional officers to the state administered Correctional Officers' Retirement System, upon petition by 60% of the local correctional officers. The CORS provides a 20-year retirement benefit, and brings additional costs to both the employer and the employee, via direct contribution rates. Effective October 1, 2006.

MACo Position: MACo supported the additional option proposed by the legislation, and testified in support of the bill.

HB 1737 (Chapter 110)

State Employees' and Teachers' Retirement Enhancement Benefit Act of 2006

Bill Description: Creates an enhanced benefit for state employees and teachers participating in the State Retirement System. The enhanced benefit offers an increased benefit multiplier from 1.4% to 1.8%, and applies to service retroactive to 1998. Employee contribution rates rise from 2% to 5% over a three-year period. Participating local governments may elect to "opt in" to the enhanced benefits by June 30, 2007, with extended coverage to apply to county employees, school board employees, or other covered governmental units. Effective July 1, 2006.

MACo Position: MACo did not testify on the state employee components of the legislation, but did stress the importance of the “local option” for application to locally funded employees.

EMPLOYMENT RELATIONS

SB 420 (Chapter 251)

Law Enforcement Officers’ Bill of Rights – Hearing Boards – Binding Arbitration

Bill Description: For counties that have authorized the use of binding arbitration for collective bargaining, requires the use of binding arbitration when there is a dispute during collective bargaining regarding: (1) the composition of the hearing board that considers claims of law enforcement officer misconduct; and (2) whether the determination of that board as to discipline is final. Effective October 1, 2006.

MACo Position: MACo has long opposed any legislation that would inappropriately restrict the authority of a chief law enforcement officer to administer discipline. Under current law, the hearing board’s determination of guilt or innocence is mandatory but subject to certain narrow exceptions, the board’s disciplinary recommendation is advisory. The chief generally has the authority to increase or decrease the board’s disciplinary recommendation.

MACo opposed this legislation, arguing that the bill would remove the discipline accountability from the chief and place it in the hands of an unaccountable third party. MACo also argued that law enforcement officers receive greater disciplinary protections under Maryland’s Law Enforcement Officers’ Bill of Rights than almost any other state in the nation.

ENVIRONMENT

SB 379 (Chapter 524)

Environment – Patuxent River Watershed

Bill Description: Contingent on funding being available from the Bay Restoration Fund, requires nonfederal wastewater treatment plants that discharge wastewater into the Patuxent River or any of its tributaries to upgrade to enhanced nutrient removal, as defined under § 9-1601 of the Environment Article. Publicly owned wastewater treatment plants that have a design capacity of at least 500,000 gallons per day must upgrade by January 1, 2012. Wastewater treatment plants with a design capacity of at least 50,000 gallons per day must upgrade by January 1, 2016. Wastewater treatment plants with a design capacity of less than 50,000 gallons per day must upgrade by January 1, 2020. Also repeals certain obsolete provisions of law. Effective October 1, 2006.

MACo Position: As originally introduced (as House Bill 1588), the bill would have limited nitrogen and phosphorous discharges by wastewater treatment plants into the Patuxent River or any of its tributaries. MACo opposed the original House bill because it constituted an unfunded mandate on counties and set nitrogen and phosphorous discharge limits that could not be reached with current technology. MACo withdrew its opposition when the bill (and also this Senate bill) was amended to become a funded mandate that was technologically feasible.

FINANCE

HB 257 (Chapter 565)

State Treasurer - Authorized Investments - Commercial Paper

Bill Description: Authorizes State and local governments to employ up to 10% top grade commercial paper in local portfolios of public funds. Also allows use of consolidated instruments, also with highest rating, including commercial paper and other non-governmental components. Effective July 1, 2006.

MACo Position: This successful MACo initiative bill was a product of extended cooperation with the Treasurer and numerous county financial managers. MACo stressed the potential benefits of increased yield and greater flexibility to reach both larger jurisdictions with in-house investment management, and smaller jurisdictions that participate in the Maryland Local Government Investment Pool.

HB 288 (Chapter 455)

Local Property Tax - Credit for Individuals at Least 70 Years Old

Bill Description: Authorizes county and municipal governments to grant a property tax credit to dwellings owned by individuals at least 70 years of age, and with limited income. The jurisdiction may set the qualifications for the credit, and its amount and duration. Effective June 1, 2006.

HB 354 (Chapter 89)

Property Tax - Credit for Repaired or Reconstructed Dwelling

Bill Description: Alters two tax credit programs recently enacted as responses to damages caused by Tropical Storm Isabel. The bill resolves uniformity concerns, and authorizes affected local governments to grant appropriate tax relief for repaired or reconstructed dwellings. Effective June 1, 2006.

HB 941 (Chapter 362)

Enterprise Zones - Property Tax Credits After Expiration of Designation of Enterprise Zone

Bill Description: Allows business located within a designated enterprise zone to retain tax benefits for a five-year period, following the area's decertification as an enterprise zone. Effective July 1, 2006.

HB 1006 (Chapter 370)

Real Property - Condominium Conversions - Income Eligibility for Extended Leases - Purchase of Rental Facility by Local Government or Housing Agency

Bill Description: Alters requirements for tenants to be provided an extended lease when an apartment building is converted to condominium status, allowing each county government to determine income thresholds for this determination. Effective October 1, 2006.

SB 860 (Chapter 543)

Local Government - Investment of Other Postemployment Benefits Funds

Bill Description: Authorizes local governments to invest postemployment benefit funding in a manner comparable to that authorized for pension systems and other long-term obligations. Effective October 1, 2006.

MACo Position: MACo supported SB 860, recognizing the emerging need for solutions to long-term liabilities of postemployment benefits (highlighted by recent determinations by the Government Accounting Standards Board). Investment and governance by trustees similar to the treatment of a pension system, explicitly enabled by this bill, will be a likely vehicle for many jurisdictions facing substantial long-term benefit costs.

SB 982 (Chapter 446)

Property Tax Credit - Nonprofit Swim Clubs

Bill Description: Authorizes county and municipal governments to grant a property tax credit to nonprofit swim clubs owning property used for community recreation. The local government may determine the amount and duration of the credit. Effective July 1, 2006.

HB 1532 (Chapter 403)

Property Tax Credit - Structures Using Qualifying Energy Conservation Devices for Electricity Generation

Bill Description: Modifies an existing local option property tax credit program (generally targeted to high performance buildings and alternative energy usage) to also include property used to generate electricity for use in a structure. Effective June 1, 2006.

FOCUS ON: ANNEXATION

Annexation reform has become an important issue in the last several years, as the process is increasingly being used as a mechanism to circumvent county land use policies and laws. Recently, the problem has become more pronounced as developers have more frequently partnered with municipalities to annex large tracts for intense development. While MACo supported updating parts of the annexation law, MML believed that the current laws were adequate. MACo and MML participated in a Department of Planning workgroup over the 2005 interim in an attempt to resolve their differences, but were unable to reach an agreement. Feeling that legislation was the only remaining option, MACo made annexation reform a 2006 legislative initiative.

MACo secured the introduction of the Annexation Planning and Procedures Act of 2006 (House Bill 1239/Senate Bill 536), which included provisions to restrict land use inconsistent with county zoning in annexed areas, increase citizen referendum rights regarding annexations, ensure full consideration of the impact of development in annexed areas on county infrastructure, and motivate joint county-municipal planning for future growth to be secured through annexations. MML opposed the MACo initiative, arguing that the initiative was an attack on municipal autonomy. MML responded by securing the introduction of legislation that included a requirement that counties designate growth boundaries around municipalities and county growth areas, with boundary disputes being resolved by the Department of Planning (House Bill 1640/Senate Bill 1013).

The House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee heard the bills. Both committees formed workgroups to carefully study the issue. Environmental Matters Committee Chairman Maggie McIntosh helped facilitate a MACo/MML compromise, which was amended onto a separate bill, House Bill 1141. Key provisions of House Bill 1141 include:

1. The existing five-year restriction on development in annexed areas is enhanced by basing the restriction on substantial compliance with county zoning rather than the county comprehensive plan, which is more generic than zoning. Density increases during the restriction period are limited to 50%.
2. Municipalities must include a growth element in their comprehensive plans, including consideration of county infrastructure impacted by annexation and mechanisms for financing that infrastructure.
3. Counties and municipalities must include a water resources element in their comprehensive plans, which will address both water supply and sewerage treatment discharge and stormwater runoff capacity.
4. The new elements must be included in comprehensive plans by October 1, 2009, with a one-year extension being available. After the deadline lapses, a county or municipality loses the ability to rezone property until all elements are included.
5. Establishes a task force to consider growth policies. The charge of the task force includes analyzing the impact of municipal growth on county infrastructure and furthering joint planning.

FOCUS ON: SCHOOL CONSTRUCTION

The Maryland General Assembly provided \$323 million for school construction in the FY 2007 capital budget (Senate Bill 370/Chapter 46). This represents the largest single year appropriation for school construction ever. The Aging Schools Program, which has been flat funded at \$10.4 million annually since 1998, will also receive an additional \$3.7 million in funding. Securing additional school construction funding, up to \$400 million, was a MACo legislative initiative.

Last 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 School Facilities Act of 2004 (House Bill 1230/Chapter 307). However, that commitment only funds minimum needs and did not envision the rapidly escalating construction costs which have significantly reduced the buying power of each subsequent \$250 million annual installment.

To maintain the credibility of the commitment for the next seven years, MACo urged that \$250 million be again funded with bond proceeds. Further, recognizing the impact of unanticipated construction inflation and the need to reimburse counties for forward funding school construction and renovation, MACo urged that an additional \$150 million from reported fund balances be appropriated as pay-as-you-go capital for FY 2007 only, for a total FY 2007 appropriation of \$400 million.

Governor Robert Ehrlich included \$281 million for school construction in his FY 2007 capital budget. The General Assembly increased the appropriation to \$323 million. A rough breakdown of the \$323 million includes \$210 million for school construction projects in all 23 counties and Baltimore City and \$96 million for projects in 12 specific counties, with the remaining \$17 million taken from the contingency fund.

If a county receives school construction funds for an eligible project but cannot use the funds for that project, the county may opt to: (1) apply the funds to another eligible school project in the current fiscal year; (2) revert the funds to the contingency fund where they will be maintained to provide additional funding to that county for eligible projects in the next fiscal year; or (3) use the funding for projects eligible under the Aging Schools Program.

A two-cent reduction in the State property tax rate raised concern that the reduction might impact the school construction or Aging Schools Program funding. Subsequent to the concerns being raised, the Governor announced that the reduction would not jeopardize any funding for school construction or the Aging Schools Program.

HUMAN SERVICES

HB 1237 (Chapter 612)

Department of Human Resources - Local Social Services Boards - Membership

Bill Description: Allows a local Board of Social Services to have as many as 13 members, at the discretion of the county governing body. Prior law established a limit of nine members for most counties, with specific exceptions now rendered obsolete by this broader flexibility. Effective October 1, 2006.

SB 294 (Chapter 243)

Children, Youth, and Family Services - Local Management Boards, State Coordinating Council, and Local Coordinating Councils - Services for Children with Special Needs

Bill Description: Codifies numerous provisions of law governing Local Management Boards and the state oversight of multidisciplinary services to youth and families. Substantive provisions are identical to those in law prior to the “sunset” of the former Office of Children, Youth, and Families and its related statutory structure. Bill essentially codifies and clarifies practices in use by Executive Order and local action since the 2005 subset. Effective October 1, 2006.

MACo Position: MACo supported the legislation, recognizing the importance of the underlying framework behind children and family services – with much coordination of these primarily state services occurring within the county framework (either within county government, or by county-established agencies).

SB 811 (Chapter 441)

Residential Child Care Capital Grant Program

Bill Description: Creates a capital program under the Office of Children, to provide grants to local governments and nonprofit organizations providing child care programs or services. Funds may be provided (but are not mandated) beginning in FY 2008, and the

Board of Public Works must approve allocation of funds, and may establish guidelines via regulation. Effective October 1, 2006.

INTERGOVERNMENTAL RELATIONS

HB 985 (Chapter 366)

State Budget - Funding for Circuit Court Law Clerks

Bill Description: Repeals a requirement that counties pay 25% of the salary costs of circuit court law clerks, effective FY 2008—resulting in the originally intended full state funding. This funding mandate was an ongoing result of budget-driven adjustments made during the 2003 legislative session. Effective July 1, 2006.

PLANNING AND ZONING

HB 2 (Chapter 289)

Agricultural Stewardship Act of 2006

Bill Description: Requires the Governor to include annual funding in the State budget for rural business development and assistance, through FY 2020. Authorizes a county to include a priority preservation area element in its comprehensive plan. A county's acreage goal for agricultural land to be preserved through easements and zoning within the area shall be equal to at least 80% of the remaining undeveloped land in the area. A priority preservation area element is required for State certification starting in FY 2009. Counties with State certification are eligible for an unspecified amount of additional Maryland Agricultural Land Preservation Foundation aid starting in FY 2009. Authorizes the Foundation to provide grants to the Maryland Agricultural and Resource-based Industry Development Corporation for the purchase of agricultural preservation easements and farmland acquisition. Increases the mandated annual funding for soil conservation districts. Creates a University of Maryland Agriculture and Natural Resources Internship Program. Expresses the intent of the General Assembly that, to the extent funds are available, the Governor increase the annual funding for: (1) the Maryland Agricultural Water Quality Cost Share Program; (2) the Cover Crop Program; (3) the Manure Transport Program; (4) the Foundation, for its existing easement program, the Critical Farms Program, a Priority Preservation Areas Program, or an installment purchase agreement program; (5) the Corporation, for development of a Next Generation Farmland Acquisition Program; (6) the Maryland Cooperative Extension at the University of Maryland; (7) the Maryland Agricultural Education and Rural Development Assistance Fund; and (8) certain agricultural and marketing rural assistance programs within the Department of Agriculture. Requires the Department of Agriculture to review its agricultural marking program and information technology infrastructure. Requires the Department of Agriculture and the Department of the Environment to jointly review the status of the linked deposit low interest loan program for agricultural conservation and water quality improvement. Also creates the Incentives for Agriculture Task Force. Effective June 1, 2006.

MACo Position: MACo supported the legislation with amendments. The original bill required counties to designate priority preservation areas in their comprehensive master plans. MACo argued that this was a mandate on county land use authority. The bill was

amended so that a county only has to designate priority preservation areas if it wants its agricultural preservation program to be State certified.

HB 460 (Chapter 174)

Maryland Agricultural Land Preservation Foundation – Restrictions of Released Lots

Bill Description: Authorizes the Maryland Agricultural Land Preservation Foundation to waive the maximum lot size for released lots in agricultural preservation areas, so that the maximum lot size would be 2 acres, if: (1) the Foundation receives a recommendation to allow a maximum lot size of more than 1 acre from the county agricultural preservation advisory board and the planning and zoning authority of the jurisdiction where the land is located; and (2) the Foundation determines that a lot size greater than 1 acre will not interfere significantly with the agricultural use of the land under easement. Effective July 1, 2006.

MACo Position: MACo originally opposed the legislation as it also authorized the Department of the Environment to adopt regulations that could require a maximum lot size of 2 acres. Traditionally, the Department has played a very limited role in determining when a released lot size should be 2 acres and MACo believes the authority should remain primarily with the counties and the Foundation. The legislation was amended to address MACo's concerns, and MACo dropped its opposition.

HB 769 (Chapter 192)

Maryland Agricultural Land Preservation Foundation – Easements – Program Requirements

Bill Description: Increases the maximum amount that the Maryland Agricultural Land Preservation Foundation can give to any county for matching allotted purchases of preservation easements from \$1 million to \$2 million. Requires counties to adopt an ordinance that establishes the length of time, between 1 to 5 years, for a district agreement. Under current law, a district agreement runs for 5 years. Alters a restriction for the reapplication process for an easement so that a landowner who rejects an offer from the Foundation to purchase an easement on the same land during two consecutive years, for a reason other than insufficient Foundation funds, may not reapply to sell an easement on the same land for the following two consecutive years. Encourages counties to provide property tax credits for agricultural districts. Also requires the Foundation to submit a report to the General Assembly on steps necessary to eliminate agricultural districts from the Maryland Agricultural Land Preservation Program. Effective July 1, 2006.

HB 1141 (Chapter 381)

Land Use – Local Government Planning

Bill Description: Requires counties and municipalities to include a water resources element in their comprehensive plans. Requires municipalities that exercise zoning authority to include a municipal growth element in their comprehensive plans. Alters the “5-year rule” to prohibit development of annexed land for a use that is substantially different than a use authorized by the county, or at a substantially higher, not to exceed 50%, density than could be granted for the proposed development, in accordance with the zoning classification of the county. Authorizes municipalities to designate priority funding areas and requires them to comply with priority funding area criteria. Authorizes

counties and municipalities to enter into joint planning agreements. Creates a Task Force on the Future for Growth and Development in Maryland. Effective October 1, 2006. *For further detail, see Focus On: Annexation, page 8.*

MACo Position: MACo initially opposed HB 1141. The bill originally required counties and municipalities to include an extremely detailed water resources element in their comprehensive plans. MACo argued the technical ability required to create the element was beyond the capability of most local governments. The legislation also granted the Department of the Environment, Department of Natural Resources, and Department of Planning final approval authority over certain plan elements, which MACo argued intruded on local land use autonomy.

When the House Environmental Matters Chairman decided to amend provisions derived from several pieces of annexation legislation onto the bill and agreed to amend the water resources element to address MACo's concerns, MACo altered its position and supported the bill.

HB 1277 (Chapter 490)

Protected Lands – Local Land Use Applications – County Authority

Bill Description: Clarifies the application process for applications affecting land that is protected by a program within the Department of Natural Resources, including land that is subject to a conservation easement: (1) within a designated rural legacy area; (2) held by the Maryland Environmental Trust; or (3) funded under Program Open Space. If an administrator of the land conservation program has not approved the use for the land for which an application is made, a local government may deny an application for a subdivision plat or plan, a residential building permit, or any other non-agricultural use or activity, including an access road. Effective October 1, 2006.

SB 682 (Chapter 532)

Environment – County Plans – Removal of Solid Waste Acceptance Facilities

Bill Description: Authorizes a county to remove a proposed solid waste acceptance facility from the county solid waste plan under certain circumstances. A county may not remove a solid waste acceptance facility necessary to provide adequate capacity for county solid waste disposal. The bill applies retroactively. Effective October 1, 2006.

MACo Position: MACo supported the legislation. Several State court rulings have held that a county cannot retract a prior approval for a proposed solid waste acceptance facility, even if several years have elapsed with no activity on the behalf of the owner of the proposed facility. The bill creates a set of limited but reasonable exceptions to those rulings.

SB 751 (Chapter 55)

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Critical Areas Commission – Authority

Bill Description: Alters the definitions of “program amendment” and “program refinement” under the Chesapeake Bay Critical Area Protection Program. Alters the requirements and guidelines for locating growth allocation in resource conservation areas. Requires the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays to determine if a proposed amendment or refinement to a critical area protection program of a local jurisdiction is consistent with the provisions of the Program and the

purpose, policies, goals, and criteria of the Commission. The Commission may approve the proposed program amendment or refinement, deny the amendment or refinement, approve the amendment or refinement subject to one or more conditions, or return the amendment or refinement to the local jurisdiction with a list of changes to be made. Effective June 1, 2006.

PUBLIC ETHICS

HB 698 (Chapter 584)

Open Meetings Act – Administrative Function – Reporting Requirement

Bill Description: Renames the executive function exclusion under the Open Meetings Act to the administrative function exclusion. Requires a public body that recesses an open session to carry out an administrative function in a meeting that is not open to the public to include in the minutes of the public body's next meeting: (1) a statement of the date, time, place, and persons present at the administrative function meeting; and (2) a phrase or sentence identifying the subject matter discussed. Effective October 1, 2006.

MACo Position: MACo originally opposed SB 406. The legislation was introduced at the request of the Open Meetings Compliance Board and as initially introduced would have prohibited the use of the executive function exclusion for budget deliberation meetings. For planned executive function meetings, a local government would have been required to post a meeting schedule. For unplanned executive function meetings, a local government would have been required to include certain information about the executive function meeting in the minutes of its next public meeting.

MACo responded by having HB 698 introduced, which MACo viewed as a sensible response to the concerns raised by the Board. The legislation addressed the Board's concerns while not unduly burdening local governments. MACo also supported SB 406 when it was amended to mirror HB 698.

PUBLIC SAFETY AND CORRECTIONS

HB 475 (Chapter 91)

Correctional Services – Correctional Units – Mutual Aid Agreements

Bill Description: Authorizes mutual aid agreements between certain correctional units, including the Department of Public Safety and Correctional Services, the Department of Juvenile Services, and the office of a county sheriff or other unit of government with responsibility for operating a local correctional facility or detention center. Effective October 1, 2006.

HB 770 (Chapter 472)

Emergency Management – Emergency Plans for Human Service Facilities

Bill Description: Requires certain human service facilities, including nursing homes, assisted living facilities, hospitals, and group homes, to develop an emergency plan. The emergency plan must provide for the evacuation and continuing care of individuals served by the human service facility during an emergency. Human service facilities must give local organizations for emergency management access to their emergency plans. A State agency responsible for the licensing of a human services facility must adopt regulations governing the development of emergency plans after consulting with certain

entities, including local organizations for emergency management. Effective June 1, 2006.

MACo Position: MACo opposed the original legislation, which would have required a local organization for emergency management to coordinate with certain regulated facilities to help the facilities develop an evacuation plan. The bill's definition of what constituted a regulated facility was extremely broad and not well defined. The bill represented a potentially significant unfunded mandate on local governments. The legislation was subsequently amended to address MACo's objections.

HB 1172 (Chapter 485)

Public Safety – Missing Persons – Reports and Investigations

Bill Description: Requires the Police Training Commission to develop a uniform missing person report to be used by each law enforcement agency in the State by October 1, 2008. Prohibits a law enforcement agency from establishing a mandatory waiting period before taking a missing person report. Requires a law enforcement agency to take a missing person report provided in person and authorizes an agency to accept a missing person report made by phone or other electronic means. Requires the Office of the Chief Medical Examiner to maintain DNA samples and photographs of unidentified human remains. Also includes provisions relating to the cremation of bodies. Effective October 1, 2006.

MACo Position: While MACo did not take a formal position on the bill, MACo did express concerns about a requirement that local law enforcement agencies publish and distribute a brochure describing basic information about a missing person investigation. The General Assembly struck the brochure requirement from the bill.

HB 1249 (Chapter 386)

Criminal Law – Prohibition on Prerecorded Emergency Messages – Exceptions

Bill Description: Creates an exception to the prohibition against using a device to dial by remote control a preprogrammed telephone number and transmit a prerecorded message communicating an existing emergency condition, including fire, illness, or crime, without written approval from the holder of the number dialed. The prohibition does not apply to: (1) State or local law enforcement agencies that are conducting an official investigation or communicating an emergency condition; (2) State or local emergency management agencies that are communicating an emergency condition; or (3) a person that is specifically designated by certain governmental units to participate in an official investigation or communicate an emergency condition. Effective October 1, 2006.

MACo Position: The original legislation created a narrow exception and MACo supported the bill with amendments that would clarify that local law enforcement or emergency management agencies that currently use prerecorded emergency messages would not be subject to the existing prohibition. The General Assembly accepted MACo's amendments.

SB 288 (Chapter 25)

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

Bill Description: Extends the sunset date of legislation that requires law enforcement agencies to collect and report certain information about traffic stops, including the race or ethnicity of the driver, from August 31, 2007 to August 31, 2008. Effective October 1, 2006.

SB 562 (Chapter 53)

Public Safety – Fire Companies – Limited Access to Private Water Sources

Bill Description: Authorizes a fire company, if there is no other water source available to extinguish a fire or mitigate an emergency, to enter private property and obtain water from a private water source, such as a pond, lake, stream, cistern, or swimming pool, to extinguish the fire or mitigate the emergency. Effective October 1, 2006.

TRANSPORTATION AND PUBLIC WORKS

HB 143 (Chapter X)

Motor Vehicles - Motorized Minibikes – Regulation

Bill description: Authorized local jurisdictions to regulate “motorized minibikes,” by requiring permits for their use, and imposing a fee for the permit. “Motorized minibike” is defined, but includes only vehicles not currently regulated by the Motor Vehicle Administration. Effective October 1, 2006.

MACo Position: MACo joined the county law enforcement community in raising concerns about unregulated, untraceable vehicles being used in local roadways and in the commission of crimes. MACo supported the original version of HB 143, but urged any effort to enable better tracking of such vehicles.