

7

Legislative Affairs

In the early years of the Association, the organization served a variety of functions. As the Association matured, counties recognized the value of a stable advocate for county issues in the State policymaking process. Over time, the Association has become an effective and widely respected voice for county issues, with major influence on a range of issues critical to county governments.

Advocacy – An Increasing Priority

The Association's leadership has long been attentive to county issues subject to State policymaker decision making in Annapolis. Executive Secretary Lovelace reported in the October 1960 *Courthouse News and Notes* that, "how well we do in the General Assembly depends, in no small measure, on how well we do in the heart, and mind, and conscience, and will of every single member of our Association." A commitment among county officials to carry their message to State officials has driven the Association's focus since that time.

The primary instrument of issue advocacy through the Association has been through its Legislative Committee. Conceptually, the Legislative Committee brings together county officials from across the state to consider legislative issues, and establish the Association's position. As the Association evolved, this process increasingly defined the "county position" on issues before the State. In November of 1960, the 42 county representatives voted to accept the ten legislative resolutions recommended by the Legislative Committee, under the leadership of President Delbert Null. At the time, not every county was represented on the Committee.

However, around this time, the Maryland Court of Appeals found that representation in the Maryland House of Delegates and the Senate was malapportioned due to "gross disparities from population-based representation." As a result, the Legislature reapportioned itself to assure "one person, one vote." Sometime thereafter, MACo followed suit, expanding the Legislative Committee to include one representative from each county, with the representative being chosen by each jurisdiction. According to former staff member Mavis Spence, the organization's advocacy immediately became "more intense."

During the 1960s, it became clear that legislative advocacy was to be a major component of the Association's activities. MCCA President and Caroline County Commissioner John W. Eveland, in a letter to the membership prior to the 1965 Summer Conference, advised that, "the Board of Directors has given careful consideration this Summer to means by which the Association may more effectively work for the counties of Maryland. It is our belief that the time has come to change the emphasis of the organization from a clearing-house, informational orientation and to place more emphasis on its role as a representative spokesman before administrative and legislative bodies of the State." With this increased focus on legislative matters, the role of the Legislative Committee expanded into the legislative session— as the group was convened to actually guide Association positions on specific pieces of proposed legislation.

This added enthusiasm is reflected in a decade-long evolution in the role of the Legislative Committee. In 1960, its main function was to adopt resolutions prior to the meeting of the General Assembly; by the end of the decade the body was meeting regularly throughout the legislative session to react to issues arising as it progressed. During the 1970 session of the Maryland General Assembly, the Association took a position on 113 bills - a far cry from the handful of broad policy resolutions that preceded this newfound attention.

President Eveland further recommended, in his 1965 letter, that "the Executive Secretary's office be moved from College Park to Annapolis and the counties assume full responsibility for financing the operations of this office." This movement in facility location is certainly commensurate with the increased focus on legislative matters - having the Legislative Committee and Association staff located in downtown Annapolis offered more ready access to State legislators and policymakers.

The modern MACo Legislative Committee continues to provide an environment wherein each jurisdiction's voice is represented on all organizational positions. The long-held standard of "one county, one vote" ensures that the concerns of each jurisdiction are weighed— not just those of the larger, more populous counties. MACo Past President, and former Baltimore County Executive, now Congressman, C.A. "Dutch" Ruppertsberger once noted that "MACo operates much like the U.S. Senate in that each county has one vote, regardless of size, meaning that the individual is more important than the jurisdiction."

Several counties with two-chamber governments (charter counties with both a county executive and a county council) have often elected to "split" the county's vote, with one-half of the county's vote belonging to a representative from both segments of the government. While the overwhelming share of positions taken by MACo are reached by relative consensus, there is a special authorized supermajority voting process to ensure that a narrow majority of counties does not overwhelm the views of a sizable minority on important issues. Upon a motion that is seconded by at least two other counties, the vote necessary for the Legislative Committee to take a position on a matter, other than a matter of procedure and other than a motion to take "no position" on an issue, shall be the affirmative vote of 3/5 of the counties present. The motion shall be made before the vote on the matter. Additionally, MACo maintains a policy that once the organization's position is taken, members and staff do not reveal the jurisdiction-by-jurisdiction votes, thereby avoiding any potential "divide and conquer" strategies by opposing advocates. Over the years, these procedures have served the counties well— ensuring that all voices are heard, and that the organization effectively reflects the views of its member counties.

With the MACo Legislative Committee meeting weekly during the 90-day legislative session, county officials have an opportunity to stay close to the issues about which they care. The MACo meetings offer an opportunity for members to interact with State policy makers and to take organizational positions. Following the meetings, county officials are urged to meet with senators and delegates to present timely county concerns. MACo's presence in Annapolis heightens its organizational and advocacy visibility with the relevant policymakers in the State.

The Technology Factor

As MACo's role in the legislative process was expanding, so too was the capacity of the process itself. The emergence of technology fundamentally changed the way players like MACo interacted with the legislature.

In the 1960s, before the widespread use of computer technology, Mavis Spence proofread bills line by line, searching for clerical errors. The Maryland Constitution requires a variety of technical components in a bill or its title – and even modest errors in language or structure could render a piece of legislation invalid. “A lot of times we got a bill killed due to a simple clerical error I found,” she noted, recalling time spent “burning the midnight oil looking for clerical errors on bills.” At that time, bills were driven to Baltimore to be printed and often were killed when traffic or driving conditions proved impassible.

MACo now uses internet-based technology, integrated with the Maryland General Assembly's own web-based services. The one-time concerns over technical errors are all but alleviated with greatly expanded clerical and professional staff. The once-laborious process of “bill tracking” is much simpler, with General Assembly hearing schedules and updated information incorporated into daily legislative reports produced in the MACo offices, and available to county officials. *Technology in MACo offices is discussed in Chapter 4.*

Recurring Issues Through the Years

As MACo and its predecessor organizations have labored to represent county governments on policy issues, a number of themes have remained prominent from year to year, decade to decade. Counties, in their relationship with the State, consistently strive to maintain autonomy over local decision-making, and to resist state (or other) intrusion into local decisions.

In 1966, MACo supported the product of the State's landmark constitutional convention, in particular the Code Home Rule constitutional amendment. The proposed Constitutional revisions were placed before citizens in a September 13, 1966 referendum. The successful referendum established the new form of county government, providing an alternative form of home rule for counties. Specifically, a “Code Home Rule” county may not be subject to single-county legislation by the Maryland General Assembly, but instead must be subject to legislation that addresses the group as a whole, or by certain subclasses. Since its inception, six Maryland counties have adopted Code Home Rule Charter.

At the same time that the State was contemplating its constitutional restructuring, it was also seriously considering the landmark Cooper-Hughes legislation, which called for major changes in state and local fiscal structures. The Cooper-Hughes legislation restructured the State's tax systems and built the foundation for the entire modern fiscal relationship between the State and its counties. This legislation was narrowly defeated in the House of Delegates in 1966, but was re-evaluated and enacted in large part in 1967. The legislation created, among other things, the long-standing “piggyback” income tax system to provide county governments with an additional substantial revenue source. The 1967 legislation also provided State assistance in a variety of fashions—the State provided a share of its own property tax to counties (which stayed in effect until 1993), offered additional assistance for school construction projects, and launched a grant to counties and municipalities for police protection. The counties, through the work of their members and staff,

were instrumental in the crafting of this legislation—highlighting the critical importance of counties’ use of policy advocacy. Bill Ratchford, MACo Executive Secretary at the time, recalls “the whole driving effort from MACo’s point of view was less reliance on the property tax.”

MACo has also long been involved in another specific aspect of the State/county relationship – battling against “unfunded mandates.” County officials have frequently raised concerns that State and federal requirements mandate certain programs or functions without providing resources to carry them out. MACo has long been an advocate for curtailing or eliminating such unfair practices, frequently working on the issue with its sister organization, the Maryland Municipal League, and also with the National Association of Counties. This added sensitivity to mandates has yielded tangible results; for example, under laws passed at MACo’s urging, any legislation introduced to the Maryland General Assembly is evaluated for possible local government mandates, which are appropriately labeled if they are found to require substantial effort by local governments. Similarly, the legally required fiscal note for each bill includes details about mandates on units of local government where appropriate. These “red flags” help legislators remain sensitive to the concerns of local governments, who are frequently subject to or responsible for carrying out State policy goals.

Practically every year, the General Assembly considers legislation seeking to chip away at the counties’ land-use authority. In fact, as far back as 1973, then Governor Marvin Mandel, frustrated with local land-use decisions, introduced legislation that would give the State some control over growth and development. However, the Governor did not feel “the State should be given the authority to pre-empt local governments on zoning decisions.” Expressing a time-honored theme, the counties successfully defeated the legislation by arguing that local planning decisions belong with the officials closest to the people.

In response to land-use planning concerns in 1992, MACo strongly lobbied against the “20-20 Referendum,” a bill that would have imposed more intrusive land use control measures on county government. That bill was rejected by the General Assembly, but MACo made a commitment to then Governor William Donald Schaefer to work out a compromise which resulted in the passage of the Economic Growth, Resource Protection, and Planning Policy Act, commonly referred to as the 1992 Growth Act. Supported by MACo, the Growth Act established statewide growth management policy between the State and local governments, directing local comprehensive plans to include seven visions for future growth. In doing so, the Act prohibited local jurisdictions from approving local projects that involved State funding if the project was inconsistent with their local comprehensive plan. Conversely, the State was prohibited from approving State projects that conflicted with State or local planning policy.

Concerned that local governments were still not doing enough to preserve open space and agricultural land and were encouraging sprawl development, in 1997 the General Assembly passed landmark legislation known as the Smart Growth Areas Act. The Smart Growth Areas Act provided statutory validation for refusing to fund development of new water and sewer and transportation infrastructure outside newly designated Priority Funding Areas, geographic areas deemed suitable for growth. A major political battle ensued between the State and the counties over who would control final Priority Funding Area designation. The State Office of Planning was intended to have the authority. However, the General Assembly adopted MACo amendments that shifted this fundamental planning responsibility to the local jurisdiction, recognizing that locally elected and directly accountable officials must make planning and zoning decisions.

Some other issues related to land use planning involve counties' ongoing relations with municipal governments. Since the functions and goals of counties and municipalities are so closely intertwined, it is natural that questions of authority and control should arise. MACo and MML have strived to minimize these potential conflicts, frequently attempting to resolve matters between the two organizations before legislative solutions are sought.

In 1973, for instance, MML "withdrew consideration of submitting legislation regarding annexation during the 1973 Session and joined with officials of MACo in working out an annexation procedure that would be compatible with both municipal and county concerns." Both parties anticipated that this procedure would be formalized into bill form for introduction during the 1974 Legislative Session. Similar considerations with annexation and incorporation procedures (areas of long-standing conflict between counties and municipalities), as well as municipal tax setoffs, arose in 1981 and again during the 1990s. Once again, while a task force was formed by legislative action, the General Assembly largely deferred to the cooperative efforts of the two organizations, which reached a compromise for new legislation, adopted during the 1998 legislative session with mutual support.

In addition to matters of authority and control, the counties are increasingly intertwined with the State on fiscal matters. The counties receive State assistance for various fundamental locally delivered programs such as education and public safety, and when the State's fiscal capacity becomes strained, this assistance falls into jeopardy. The most pointed example of this relationship was in 1992, when the State resolved a sizable budget deficit with a slate of measures including several hundred million dollars in cuts to local aid programs. A follow-up measure, enacted during a special legislative session in the autumn, eliminated the state's payment of teacher social security payments—enacting the mid-year cuts by way of a withholding of county income tax receipts. This mid-year measure, requiring counties to "give back state money," was a landmark moment in the state/county fiscal relationship, but served to strengthen counties' desire to maintain an aggressive and vigilant presence in the Annapolis political landscape.

Countless issues have faced counties during MACo's involvement in legislative affairs. From matters of county independence and authority to services like education and public safety—MACo's role is visible and needed. Through an active membership, a commitment to helping the State resolve problems, and an increasingly focused approach to legislative advocacy, MACo's voice is heard loud and clear in Annapolis.

Narrowing the Focus

While the early years of MACo saw a major expansion of the organization's role in legislative affairs, marked by an increase in the number of bill positions taken, that particular trend halted in the early 1990s. At that time, MACo was regularly taking positions on well over 100 bills per legislative session, including a wide range of issues affecting communities broader than local governments.

Counties face a dilemma in legislative affairs, as they fill so many roles and are affected by a wide range of policy issues before the General Assembly. Not only are counties affected by legislation dealing with public services—education, law enforcement, transportation—but also a wide range of "general application" bills as well. Counties are sizable employers, so legislation

dealing with employer health insurance, workers' compensation, unemployment insurance, and other labor-related topics all had some county effect. Counties are also affected by legislation in their various capacities as land and building owners, park and recreation providers, and equipment and supply purchasers.

A special Ad Hoc Legislative Committee Procedures Subcommittee, chaired by MACo Past President Henry Parker, recommended new policies in December 1991 regarding the best role for MACo's Legislative Committee. The Subcommittee ultimately recommended that a more focused strategy—adopting positions on fewer bills, remaining selective about organizational positions, and maintaining a limit on the annual list of initiatives—best served the now well-established advocacy organization. This reduction in the breadth of MACo's legislative efforts did not, therefore, represent a retraction of MACo's interests. Rather, it reflected an effort to heighten the effectiveness of the county voice on issues specific to local government.

The results of this concerted effort have been a decade-long commitment to “prioritize” MACo's legislative affairs. The Legislative Committee, under the newly adopted procedures, narrowed its focus, taking positions on fewer bills but to greater effect. Since the period that ended in the early 1990s, where MACo regularly took positions on 100 to 150 bills per legislative session, the drop was dramatic. MACo began taking positions on approximately 60 to 70 bills per year – roughly half the number before the move toward prioritization.

This narrowed focus has yielded impressive results. Consistently during the 1990s, MACo's impact on the outcome of legislation cannot be discounted: bills MACo supports have a substantially greater chance of passage than other bills, and bills MACo opposes have a substantially reduced chance of passing. Overall, during recent years, MACo has been able to declare a “win” on legislation upwards of 75% of the time—as the county positions, established by the Legislative Committee and articulated by the Association's membership and staff, sway State policymakers with regularity.