



House Bill 11

Environment – Bay Restoration Fund – Authorized Uses

MACo Position: **SUPPORT**

To: Education, Health & Environmental Affairs
Committee

Date: March 14, 2014

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** House Bill 11 as amended. This bill from the Maryland Department of the Environment (MDE) would create a reasonable and beneficial “tool” for improving water quality and reducing nitrogen pollution.

HB 11 would allow monies within the septic system account of the Bay Restoration Fund (BRF) to be used to connect failing septic systems located outside of a priority funding area (PFA) to a wastewater treatment plant (WWTP) with excess capacity. The bill also provides that BRF septic system account funds may be used to cover the cost of principal on debt issued for connecting failing septic systems to a WWTP and repeals a problematic requirement that a local government guarantee that any future connection to an existing WWTP within a PFA meets several specified BRF requirements.

Since the Chesapeake Bay Total Maximum Daily Load (TMDL) was first proposed, MACo has advocated that counties should have the flexibility to access a broad range of water pollution reduction “tools” so that a county can achieve the most nutrient pollution reduction for the least amount of cost. HB 11 would provide the counties with such a tool for nitrogen reduction. In many circumstances, connecting a group of failing septic systems to a WWTP is cheaper and yields greater nitrogen reduction than upgrading each of the septic systems to the best available nitrogen removal technology (BAT).

The 2011 Task Force on Sustainable Growth and Wastewater Disposal recommended the expansion of BRF funding for WWTP hookups of failing septic systems outside of PFAs so long as the process included adequate protections against sprawl development.¹ HB 11

¹ Final Report of the Task Force on Sustainable Growth and Wastewater Disposal, page 11 (December 2011).

provides such protections by requiring any proposed connections outside of a PFA to be in an area identified as a “public health area of concern” in a county’s water and sewer plan. Such a classification would have to be approved by MDE as part of the applicable county’s water and sewer plan.

Additionally, any connection proposal outside of a PFA will go through a Smart Growth exception review process that will include input by various State agencies. Projects must show that adequate sprawl protections are in place (such as easements, denied access lines, and lot consolidation measures) and that the project will not unduly impede funding access for individual septic system upgrades.

MDE will also have to develop regulations requiring public notice and consideration of the public health issues that will be addressed by the project, potential infill development, mitigation of new growth or sprawl, and the total net nitrogen reduction resulting from the project. Finally, the bill includes an annual reporting requirement to this Committee and the House Environmental Matters Committee.

HB 11 would give county governments a sensible and cost-effective tool to address nitrogen pollution while providing adequate protections against sprawl. Accordingly, MACo recommends the Committee issue a **FAVORABLE** report for HB 11.