



Senate Bill 234

Natural Resources – State and Local Forest Conservation Funds

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Education, Health, and Environmental
Affairs Committee

Date: February 12, 2019

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** SB 234 **WITH AMENDMENTS**. The bill would add several requirements, some reasonable and some problematic, to local fee-in-lieu programs established under the Forest Conservation Act (FCA).

SB 234 enacts several additional requirements on a local government that wishes to collect a fee-in-lieu under the FCA. The bill has several provisions that affect counties, including:

1. Requiring a developer to check if there are appropriate credits generated by a forest mitigation bank prior to utilizing a fee-in-lieu option;
2. Requiring a local authority that wishes to collect a fee-in-lieu to provide: (a) a plan identifying appropriate and potentially available areas for mitigation projects; and (b) detailed accounting procedures for accurately tracking fee-in-lieu monies;
3. Prohibiting a local authority from collecting a fee-in-lieu unless the authority has identified projects sufficient to cover the mitigation acreage required for the underlying development project; and
4. Requiring a local authority to ensure that the acreage for which the money is collected is fully mitigated in accordance with afforestation, reforestation, and conservation priorities and techniques authorized under State law.

MACo has no concerns with the first two provisions of the bill. Utilizing available forest mitigation bank credits prior to resorting to a fee-in-lieu is sensible policy. Likewise, the requirement for a local authority to have a general plan for using fee-in-lieu monies as well as proper accounting procedures for tracking such monies is reasonable and furthers government transparency.

However, MACo is opposed to the bill's requirements of having specific identified projects ready before collecting a fee-in-lieu and the unnecessary mitigation mandate. Identifying projects prior to collecting a fee-in-lieu runs counter to how local FCA programs actually work. Sometimes monies must be aggregated to undertake a specific project or property purchase. In other circumstances, a property

or project may suddenly become available without a local authority's prior knowledge. If passed, this provision of the bill would essentially end local fee-in-lieu programs.

The mitigation mandate is both unnecessary and redundant. Local authorities are already required to comply with applicable state laws and the bill's new reporting requirements for the Department of Natural Resources (DNR) will show whether or not the proper number of acres are being mitigated. If the DNR report shows a mitigation problem with a particular local authority, then appropriate action can be taken.

SB 234 contains several reasonable fee-in-lieu requirements for local FCA programs that promote both sound policy and transparency. However, the provision relating to identifying specific projects is unworkable and the mitigation mandate is unnecessary and redundant. Both of these provisions should be deleted from the bill. Accordingly, MACo requests the Committee issue a report of **FAVORABLE WITH AMENDMENTS** on SB 234.

MACo AMENDMENT TO SB 234

On page 1, strike beginning with "prohibiting" in line 11 down through "law;" in line 16.

On page 5, strike in their entirety, lines 10 through 20, inclusive.