



## Senate Bill 719

### *Environment – Stormwater Remediation Fees - Municipalities*

MACo Position: **OPPOSE**

Date: March 1, 2016

To: Education, Health, and  
Environmental Affairs Committee

From: Leslie Knapp, Jr. & Natasha Mehu

The Maryland Association of Counties (MACo) **OPPOSES** SB 719. The bill would allow municipalities to unfairly charge counties for stormwater mitigation that counties are already responsible for and reopen a contentious issue that has previously been addressed by the General Assembly.

SB 719 would provide that a municipality subject to a Phase I municipal separate storm sewer system (MS4) permit may charge a stormwater remediation fee to property located within the municipality that is owned by the State, a unit of State government, a county, or an institution of higher education.

While the bill's fiscal note correctly questions whether the bill as drafted currently affects any municipality besides Baltimore City, MACo will respond to the broader policy issues raised by the bill.

#### **County-Owned Property Already Subject To Mitigation – No Fee Needed**

The core concept of the stormwater fees enabled in Maryland is to address runoff issues created by property owners. These fees, in general, place this responsibility upon the facility owner – to either engage in on-site mitigation efforts, or pay a charge to offset the burden of the runoff created. SB 719 runs afoul of this principle in an essential way – the county-owned properties that it would subject to municipal stormwater fees are already subject to federal and state mitigation requirements. The fee as the “compliance tool” is redundant at best, and a double burden on county properties at worst.

Counties are already subject to stormwater mitigation requirements under the Chesapeake Bay Total Maximum Daily Load (TMDL) and applicable local TMDLs. As MACo has previously stated, counties should not have to pay a fee for mitigation work for which they are already responsible. County-owned property is already subject to appropriate mitigation – by both federal requirements and state legislation (including last year's refinement).

#### **The Government-on-Government Fee Issue Has Been Debated and Rejected, Multiple Times**

Furthermore, the General Assembly has already considered and essentially addressed the issue of one level of government charging another level of government a stormwater fee or charge. When the original legislation was adopted in 2012 requiring local governments subject to a Phase I MS4 permit

to adopt a stormwater remediation fee, the legislation specifically exempted property “owned by the State, a unit of State government, a county, a municipality, or a regularly organized volunteer fire department that is used for public purposes” from being subject to the fee.<sup>1</sup>

In 2013, the General Assembly debated legislation that would have subjected property owned by the State or a unit of State government to the fee. This legislation was turned into a task force to study the issue, but did not pass.<sup>2</sup>

Finally, the contentious omnibus legislation last year addressed the issue by creating a process whereby a local government subject to a Phase I MS4 permit may charge the State or a unit of State government a stormwater fee. The bill also provided that beginning in FY 2017, if a county funds the cost of stormwater remediation by using general revenues or through the issuance of bonds, the county shall meet with each municipality within its jurisdiction to mutually agree that the county will: (1) assume responsibility for the municipality’s stormwater remediation obligations; (2) for a municipality that has established its own stormwater fee, adjust the county property tax rate within the municipality to offset the municipality’s fee; or (3) negotiate a memorandum of understanding with the municipality to mutually agree upon some other action.<sup>3</sup>

The 2015 actions were taken over MACo’s objections and MACo sees no reason why this contentious issue must be reopened yet again.

SB 719 would upend previous General Assembly decisions and doubly burden county governments who already have stormwater mitigation mandates and responsibilities. Accordingly, MACo urges the Committee to give SB 719 an **UNFAVORABLE** report.

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<sup>1</sup> HB 987 of 2012

<sup>2</sup> HB 508 of 2013

<sup>3</sup> SB 863 of 2015