



House Bill 1257

Land Use – Clarifications and Corrections

MACo Position: **SUPPORT**

To: Education, Health, and Environmental Affairs
Committee

Date: April 2, 2013

From: Leslie Knapp Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1257 as amended by the House. The bill would make numerous clarifications and several significant substantive changes to the re-codified Land Use Article that was adopted in 2012 as part of the State's code revision process.

During the course of the code revision process, the committee that is charged with rewriting and reformatting the code will also make a series of suggested corrections and clarifications, as well as more significant and substantive changes (known as "flags"). HB 1257 is a compilation of these corrections and flags.

While MACo believes that most of the bill's provisions are either beneficial or benign, several provisions raised concern and MACo offered amendments in the House to modify two of the bill's provisions: (1) prohibiting elected officials from serving on planning commissions; and (2) requiring all charter counties with tidal waters to include a fisheries element in their comprehensive plans.

Elected Officials on Planning Commissions

As introduced, HB 1257 repealed a provision allowing one member of a local legislative body to serve on a planning commission as an *ex officio* member. Many counties have an elected member serve in an *ex officio* capacity in order to provide better communication and coordination between the planning commission, which is charged with drafting and revising the comprehensive plan, and the legislative body, which must review and accept or reject the plan.

The House struck the provision prohibiting this longstanding and effective practice but also added language that the *ex officio* member must abstain from voting on any question where

the member has an immediate personal or financial interest and that he or she must disclose recusal. MACo supports the amended language as a reasonable clarification.

Charter County Comprehensive Plan Fisheries Element

As introduced, the bill added a new provision requiring a charter county that is located on the tidal waters of the state to designate the comprehensive plan areas that would facilitate commercial fishing and shell-fishing activities (a “fisheries element”). Under current law, the requirement to do a fisheries element only applies to commission counties with tidal waters. According to the explanation provided by the code revision committee, the intent was to require those commission counties that later changed their form of government to continue to do the fisheries element.

However, the bill’s language instead would have created a new requirement for numerous charter counties that have always been exempt from the fisheries element requirement, such as Anne Arundel, Baltimore City, Montgomery, and Prince George’s. Given the explanation provided by the code review committee, MACo believes the addition of previously exempt counties was unintentional and imposes a new comprehensive planning requirement on certain county governments that is inconsistent with MACo’s request for a 2-year “time out” on any new local land use mandates.

To correct this unintentional error, the House amended the requirement to only apply to those counties that currently must do a fisheries element and clarifies that they must continue to maintain the element even if they change to a different form of government at a later date. MACo believes this captures the true intent of the fisheries element “flag” and supports the amended language.

In conclusion, HB 1257 proposes many changes to the Land Use Article that MACo either supports or has no concern with. As amended, the bill also addresses MACo’s concerns on elected officials serving on planning commissions in an *ex officio* capacity and the fisheries element comprehensive plan requirement. Accordingly, MACo requests the Committee give HB 1257 a **FAVORABLE** report.