

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
LEGISLATIVE REPORT

(Report to the Board, February 13, 2008)

LEGISLATION AFFECTING
COG BOARD POLICY FOCUS AND PRIORITIES - 2008

This is a status report on a number of Maryland and Virginia legislative initiatives which may impact COG Board Policy Focus and Priorities approved January 9, 2008. At subsequent meetings, we will address legislative initiatives before the District of Columbia Council and Congress.

Substantial legislation was "pre-filed," introduced in the Maryland and Virginia legislatures prior to their January commencements; a number of bills were introduced in both after the sessions convened. The cutoff dates for bill introduction have now occurred in both bodies; no additional legislation will be considered this year although amendments to existing bills, and relevant to the National Capital Region, are always possible.

We have reviewed legislation which we believe impacts COG's adopted priorities and areas of focus for the coming year, and have briefly addressed a number of them. In four instances – Affordable Housing, Chesapeake Bay, certain Energy elements of Climate Change, and Green Buildings – where there is both substantial proposed legislative action and existing COG policy, we have prepared state-specific analyses and proposed resolutions for Board consideration. On certain other Board Priorities without existing policy, we have identified possible state action, but have proposed no advocacy resolutions. **Recently failed legislation is highlighted in gray.**

The Board will note that we are using a slightly refined resolution structure for these legislative recommendations, specifically addressing issues, considerations, and bills pending in each jurisdiction, and relating legislative advocacy to regional relevance and existing COG policy – either historic or current or both.

1. HOUSING

The Board has identified housing as a major policy focus for 2008, and has specifically identified issues of affordable and workforce housing as critical to overall regional growth and development. Substantial legislation has been introduced in both the Maryland and Virginia Legislatures which could have significant impact on housing affordability in this region.

A. MARYLAND

Several bills address ways in which the State or local governments may invest in or encourage development of affordable housing – both rental and owner-occupied. Of note in this series of bills are:

- **HB 74**, Delegate Healey, Prince George's. Maryland Housing Rehabilitation Program providing loans to members of cooperative housing corporations. *Favorable report from Environmental Matters, pending in Ways and Means.*
- **HB 231**, Delegate McIntosh, Baltimore County. Department of Housing and Community Development, Rental Assistance Programs. *Hearing 2/07 before Environmental Matters, pending in Ways and Means.*

- **SB 281**, Senator Dyson, Calvert. Authorizing counties and municipalities to support, foster, or promote an affordable housing program for individuals or families of low or moderate income. *First reading; pending before Education, Health and Environmental Matters.*
- **HB 512 - SB 302**, Senator Frush, Prince George's. Establishing a Maryland Affordable Housing Investment Fund. *House hearing 2/28 before Environmental Matters, pending Ways and Means; Senate bill pending in Education Health, and Environment.*

One creative approach to provide workforce housing for local government employees is **HB 38**, introduced by Delegate Manno, Montgomery, which authorizes the Dept. of Housing and Community Development to purchase and sell home loans to teachers and first responders, essentially subsidizing or underwriting mortgage interest costs. *Hearing 1/31; pending in Environmental Matters.*

Recommendation: Staff recommends the Board adopt Resolution R 7-08(A), addressing affordable housing in the Maryland General Assembly.

B. VIRGINIA

Use of recordation tax revenues to assist in providing affordable housing is the subject of three bills: **HB 77**, Delegate Toscano, Charlottesville, provides a recordation tax exemption for providers of affordable housing, Referred to Finance Committee. **HB 617 - SB 661**, Delegate Amundson, Mt. Vernon, Senator Whipple, Arlington, dedicates a percentage (approximately 8%) of recordation tax for affordable housing. Referred to Committee on Appropriations Sub- Committee on Economic Development, Agriculture, and Natural Resources. *All three bills were continued to 2009.*

A three-year pilot project for rental assistance would be created by **HB 289 - SB 761**, Senator Colgan, Prince William, Delegate Englin, Alexandria. *Reported out of General Laws.*

Two bills authorize research into affordable housing. **HJ 108**, Delegate Caputo, Chantilly, provides for a study on affordable housing incentives. Consistent with the Region's concern for its own employees is **HJ 84**, Delegate Rust, Herndon, which creates study commission to consider affordable housing programs for public employees. *Both resolutions are pending in Rules.*

One bill, **SB 768**, Senator Watkins, Midlothian, amends the voluntary proffer system to preclude monetary contributions to assist in underwriting certain traditional offsite public infrastructure or needs. This amendment would reduce local government capacity to provide or require affordable housing as part of the planning/zoning process. *Substitute reported out of Local Government providing for certain impact fees in lieu of proffers; pending floor action.*

Recommendation: Staff recommends the Board adopt Resolution R 7-08(B), addressing affordable housing in the Virginia General Assembly.

2. CLIMATE CHANGE AND ENERGY

The Board has addressed issues of climate change on a number of occasions, and several COG jurisdictions have adopted specific policies or programs addressing this issue. However, there is no current Board policy addressing the national, regional, and local implications of global warming or climate change; therefore staff is not proposing any general advocacy position at this time.

In April 2007, the Board created the interdisciplinary Climate Change Steering Committee to inventory greenhouse gas production in the region, review local and regional reduction efforts to date, and propose a regional climate change policy and potential advocacy positions. The Committees recommendations are due in June, at which time the Board can consider both regional climate change policy and legislative advocacy positions. Both Maryland and Virginia are considering several climate change related proposals, which Board members or their jurisdictions may wish to address.

One element impacting climate change which has historically been a part of COG's efforts, and for which there is current policy, is the need for environmentally sound, efficient, and affordable energy. Both states are considering legislation which addresses COG's energy concerns, the passage of which could assist in addressing climate change as well.

A. MARYLAND

A Global Warming Solutions Bill, **SB 309**, Senator Pinsky, Prince George's, reintroduced from last year) would require the Dept. of the Environment to adopt regulations to require specified reductions in greenhouse gas emissions, to publish specified lists of greenhouse gas reduction measures and a final plan, and to adopt regulations in order to implement these measures. It also creates an Office of Climate Change. *Hearing 2/19 before Education, Health, and Environment.*

Several Maryland bills address the related issue of energy efficiency and renewability. The Governor has requested action on a number of these:

- **SB 205 - HB 374**, Administration and Senator Frosh, Montgomery. Establish state goal to reduce electricity consumption and peak demand by 15% by 2015; encourage utilities to reduce demand; system of measurement and verification. *Hearings 2/12 before Finance and Economic Matters.*
- **SB 268 - HB 368**, Administration and Delegate Bronrott, Montgomery. Authorize a new Maryland Strategic Energy Investment Program to help support energy efficiency, conservation, and renewable energy activities. *Hearings 2/12 before Finance and Economic Matters.*
- **SB 209 - HB 375**, Administration and Senator Garagiola, Montgomery. Strengthen the state's Renewable Portfolio Standard to 20% renewable energy by 2022 with 2% solar. *Hearings 2/12 before Finance and Economic Matters.*
- **SB 207 - HB 377**, Administration and Senator Pinsky, Prince George's. Provides grants and tax exemptions for solar and geothermal initiatives. *Senate hearing 2/6 before Budget and Taxation; House hearing 2/20 before Economic Matters.*
- **SB 106**, Senator Astle, Anne Arundel. State Environmental Trust Fund to include grants to counties with power plants. *Withdrawn.*

Recommendation: Staff recommends the Board adopt Resolution R 7-08(C), addressing energy issues in the Maryland General Assembly.

B. VIRGINIA

Although a number of bills address traditional environmental regulation and enforcement, few bills specifically address the issue of climate change and energy.

- **HJ 77**, Delegate Plum, Fairfax. Commending national "Cool County" and "Cool City" efforts. *Agreed to by both House and Senate.*

- **SB 234**, Senator Whipple, Arlington. Requires a mandatory reporting of greenhouse gases. *Passed Senate with amendment removing mobile fleet reporting requirement.*
- **SB 464**, Senator Whipple, Arlington, Creating Commission on Energy and Climate Change. *Passed Senate with jurisdiction over both energy and climate change.*
- **HB 676**, Delegate Plum, Fairfax. Creating Climate Change Advisory Commission. *Incorporated into HB 796 and passed by indefinitely.*
- **SB 627**, Senator Ticer, Alexandria. Creating Climate Change Advisory Commission (Companion to HB 676). *Incorporated into SB 464.*
- **HB 796**, Delegate Englin, Alexandria. Alternate climate Change Commission. *Passed by indefinitely.*
- **HJ 109**, Delegate Englin, Alexandria. JLARC to study and report on coal fired power plants and cap and trade proposals. *Referred to Rules.*
- **SB 446**, Senator Peterson, Fairfax, Senator Ticer, Alexandria. Establish mandatory state renewable energy and energy efficiency standards, and energy training, loans, and tax credits. *Failed in Commerce and Labor.*

Recommendation: Staff recommends the Board adopt Resolution R 7-08(D), addressing energy issues in the Virginia General Assembly.

3. CHESAPEAKE BAY

COG has been involved in restoring and protecting the Chesapeake Bay and its tributaries for more than twenty years. Its commitment to Bay restoration includes the creation of the COG Chesapeake Bay Policy and Water Resources Committee (CBPC), endorsement of and advocacy for the 1987 Chesapeake Bay Agreement, the Chesapeake 2000 Agreement, and the Chesapeake Bay Watershed Blue Ribbon Finance Panel. COG continues to urge federal, state, and local financial commitment adequate to meet the clean-up goals and targets for the Bay.

In addition to COG's long-standing policies, at its January 18, 2008 the Chesapeake Bay and Water Resources Policy Committee (CBPC) considered current legislative activity in Maryland and Virginia.

A. MARYLAND

During the Special Session last fall, the Maryland General Assembly approved creation of the Chesapeake Bay 2010 Trust Fund to be funded by \$50 million a year in state revenues. Support for such funding would be consistent with COG advocacy in recent years that has called for "fair and reliable" funding sources to control water pollution. However, companion legislation that would have provided for the administration and distribution of the Fund (HB 23 of 2007 Special Session) did not pass.

The CBPC recommends that allocation of the Chesapeake Bay 2010 Trust Fund should: (1) support on-the-ground implementation projects to the maximum extent possible; (2) use a competitive process to allocate the Fund using clear criteria for project evaluation, emphasizing the cost-effective reduction of nutrients and sediment; and (3) ensure that projects addressing urban stormwater and stream restoration receive a reasonable share of overall monies.

An Administration bill, **SB 213**, Pres. Miller, Prince George's, Senator Frosh, Montgomery, and others, has been introduced in the 2008 Session that proposes how to administer and distribute the

new fund. SB 213 would distribute funds for clean-up projects primarily on a competitive basis (overseen by state cabinet-level officials with recommendations from a scientific panel). However, there is no proposed funding allocation by category, unlike the state's other main vehicle for funding Bay-related projects. Funds from the Chesapeake Bay Restoration Fund are specifically dedicated to three pollution sources: wastewater treatment plants, on-site (or septic) systems, and agriculture. Currently, there is no similar dedicated funding source for urban stormwater management and stream restoration projects. Because the amount of pollution conveyed by urban stormwater is an increasing share of overall loads to the Chesapeake Bay, the new Trust Fund should allocate at least as much to that sector – about \$7 million a year – as is currently allocated to the improvement of on-site systems under the Chesapeake Bay Restoration Fund. *After hearing on 2/6, pending in Education, Health, and Environment.*

Recommendation: Staff recommends the Board adopt Resolution R 7-08(E), addressing the Chesapeake Bay in the Maryland General Assembly.

B. VIRGINIA

Virginia has an existing Water Quality Improvement Fund (WQIF) which assists in upgrading wastewater treatment plants to meet Chesapeake Bay goals by matching local funds on a 50/50 basis. Currently there is insufficient funding for the WQIF to meet its share of upgrade requirements.

This year legislation has been introduced which would establish a new \$100 million/year natural resource fund (funded by a new special dedicated sales tax) that would primarily be used to pay farmers to establish “best management practices” to minimize water quality pollution from their operations. A shortfall in such funding has been identified as one of the barriers to making greater progress in restoring the Bay and progress in reducing water pollutants from agriculture would complement similar efforts made by municipal wastewater treatment plants. **SB 511 - HB 1335**, Senator Whipple, Arlington; Delegate Landes, Weyers Cave; **HB 727**, Delegate E. Scott, Culpepper.

The CBPC supports creating and funding such an effort but expresses doubt over the funding source. The CBPC also raises concerns that funding of this agriculture-oriented program not endanger or limit necessary funding for the existing WQIF.

SB 511 and HB 1335, were amended in Committee to remove the \$100 million dedicated revenue source; the Fund is still created, but with no revenue source other than annual discretionary appropriation. Passed House; pending in Senate. HB 727 is pending in Appropriations.

Recommendation: Staff recommends the Board adopt Resolution R 7-08(F), addressing the Chesapeake Bay in the Virginia General Assembly.

4. GREEN BUILDING

The Board has recently endorsed the Intergovernmental Green Building Report which provided a series of recommendations on regional green building standards for new public and private commercial development. Specifically, the Board supported LEED (Leadership in Energy and Environmental Design) as the recommended standard and charged local governments to lead by example striving for a LEED rating of silver and requiring developers to attain baseline LEED “certified” standards with certain energy and stormwater management requirements.

A. MARYLAND

Several bills have been offered in Maryland which support the Board's adopted position. One in particular, **HB 23**, Delegate Manno, Montgomery County, would require the Department of Budget and Management to conduct a cost benefit analysis on requiring Green Building standards. *First reading in Health and Government Operations; Appropriations.*

Solar power has also been the subject of several pieces of legislation, specifically prohibiting local governments and home owners associations from disallowing the use of residential solar panels and establishes the right to negotiate to obtain a solar easement; **HB 84**, Delegate Barve, Montgomery, and **HB 117**, Delegate Hecht, Frederick. *Both are pending before Environmental Matters, after hearings on 1/31 and 2/7.*

Recommendation: Staff recommends the Board adopt Resolution R 7-08(G), supporting Green Building standards in the Maryland General Assembly.

B. VIRGINIA

Legislation requiring public buildings to be built pursuant to LEED standards has been introduced by Delegate Moran, Alexandria in **HB 1195**. *Left in Committee.* A similar but perhaps more robust bill has been offered by Senator Peterson, and co-patroned by much of the Northern Virginia Delegation, **SB 447**, requires that the Department of General Services shall establish green standards for state buildings in excess of 10,000 sq. ft.; applying LEED Silver standards those building less than 10,000 sq. ft. This bill has passed the Senate, in the House it is awaiting committee referral. *A substitute which requires LEED or Green Globe standards for all public buildings, but with greater lead time passed Senate and is pending in House.* Note: Although COG supports Green Building standards, Board policy only formally endorses the use of LEED as the only standard deemed sufficiently tested at this time.

A separate real estate tax class would be established by **HB 239**, Delegate Cosgrove, Chesapeake, and **SB 174**, Senator Blevins, Chesapeake, for energy efficient buildings creating a separate real estate tax class for energy efficient buildings. *HB 239 is before House floor; SB 174 has passed Senate and awaiting House action.*

Recommendation: Recommendation: Staff recommends the Board adopt Resolution L 7-08(H), supporting Green Building standards in the Virginia General Assembly.

5. LEGISLATION ADDRESSING OTHER BOARD POLICY FOCUS AND PRIORITY ISSUES

- REGIONAL EMERGENCY COORDINATION

VIRGINIA

SB 256, Senator Deeds, Charlottesville. Companion bill filed by Delegate Shuler, Blacksburg. Require institutions of higher education to coordinate emergency planning and preparedness with state and local emergency management officials. Referred to Education and Health. *Passed Senate and awaiting House referral.*

- BRAC

VIRGINIA

HJ 63, Delegate Nichols, Woodbridge. Creates a study of impact of BRAC realignment at Ft. Belvoir. *Referred to Rules Committee.*

- CENSUS

Neither state has legislation pending addressing COG's expressed census concern – the accuracy of Count. Virginia is, however, exploring procedures for reapportionment after the 2010 Census.