



February 20, 2020

The Honorable Kumar Barve
Chair, Environment and Transportation Committee
Maryland House of Delegates
251 House Office Building
Annapolis, MD 21401

RE: HB 292 - *Toll Roads, Highways, and Bridges - County Government Consent Requirement – Expansion*

Chairman Barve,

The Maryland Association of Counties (MACo) hopes to raise technical concerns with HB 292 as drafted. This bill nominally seeks to expand a limited approval authority for new or expanded State toll facilities – to extend language currently limited to nine numerated Eastern Shore counties.

MACo has not taken a position on the bill related to its essential aims, but hopes to raise these technical concerns with the Committee and its staff:

Lack of Definition of “Affected Counties”

The tenuous interpretation of this current law, including the meaning of “affected counties,” has been a matter of substantial community concern as a potential Chesapeake Bay Bridge project continues to gather public attention. Because HB 292 is written into the same section of law as the current provisions for only the nine shore counties, those jurisdictions are concerned that its passage could compromise the current understanding of that law, and what input it affords to any jurisdiction directly affected by a future Bay crossing project. Although there exists an informal letter of advice from the Attorney General, there is no formal definition of “affected.” As Senator Hershey pointed out in the January 29 hearing for this bill’s cross-file (SB 229), there are many ways to interpret the letter. MACo would suggest that if this legislation moves forward, the term be defined.

Meaning of Consent for Multi-Branch Counties

MACo has technical concerns with what would constitute consent from counties that have multiple branches of government. The lack of definition for this process may cause confusion in the situation where consent is needed and there is not consensus on where the consent comes from. This ambiguity could cause an internal struggle between the Executive and Legislative branches of county government. MACo would suggest defining the process of consent to avoid this situation.

“Affected” Municipality Idea is Unworkable

During the Senate Finance Committee hearing for SB 229, the idea of municipalities within counties having a voice was suggested to members. This would be quite a labor-intensive process and again could cause internal chaos between local officials.

Inadvertent Effects on Existing Eastern Shore Authority

MACo recognizes the concern that the bill would undermine or erode the existing authority granted to Eastern Shore counties. We continue to recommend that any version of this bill should be embodied in a new section of law – in our amendments below, we would create a new Section 4-408 to create the new statewide provisions of this bill, and leave the Eastern Shore section 4-407 untouched.

In the event the Committee seeks to amend the bill to offer a path forward, MACo would welcome an opportunity to help with these technical issues. As always, please do not hesitate to contact me at 410.269.0043 if more information regarding the local effects of this proposed legislation would be helpful to you and the Committee.

Regards,



Michael Sanderson
Executive Director, MACo

CC: The Honorable Mary Lehman, Maryland House of Delegates
The Honorable Members, Environment and Transportation Committee, Maryland House of Delegates
Staff, Environment and Transportation Committee, Maryland House of Delegates

CLARIFYING AMENDMENT SUGGESTED BY MACo

On page 1, strike in their entirety lines 8 through 12 and substitute:

“BY adding to
Article – Transportation 10 Section 4-408
Annotated Code of Maryland
(2015 Replacement Volume and 2019 Supplement).”

On pages 1 and 2, strike in their entirety the lines beginning with page 1 line 16 down through page 2 line 9, and substitute:

“4-408. A STATE AGENCY, INCLUDING THE AUTHORITY, MAY NOT CONSTRUCT ANY TOLL ROAD, TOLL HIGHWAY, OR TOLL BRIDGE WITHOUT THE EXPRESS CONSENT OF A MAJORITY OF THE GOVERNMENTS OF THE AFFECTED COUNTIES.”