



**Maryland Association of Industrial and Office Properties  
2011 General Assembly Session Briefing and Bill Profile**

**Prepared by**

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**2011 Legislative Committee and the Future of the MAIOP Branding Effort**

In December of 2010 the Board of Directors of NAIOP – Maryland took the decision to rebrand its lobbying and political activities under the name Maryland Association of Industrial and Office Properties. The decision was made in order to capitalize on the deep local roots of the association’s membership base, provide a brand under which the unified legislative positions of the NAIOP Maryland and NAIOP Maryland/DC chapters could be presented in Annapolis via a logo that immediately and intuitively tells outside audiences the type of members and scope of interests represented by the association. All other membership services continue to be delivered under the NAIOP – Maryland name. The branding effort was well received in Annapolis and by member companies but future use of MAIOP is in doubt pending review and approval by the NAIOP Corporate Headquarters in Washington, D.C.

Industry related issues in Annapolis continue to be driven by EPA mandates to improve Chesapeake Bay water quality, Maryland’s energy conservation goals and the state’s budget and tax struggles. **The MAIOP Maryland Legislative Committee** reviewed all of the more than 2,000 bills introduced during the 2011 General Assembly Session to determine their impact on land development, construction and management of commercial and industrial property. MAIOP volunteers and staff followed 88 bills during the session, directly lobbied 43 and submitted testimony at more than 50 hearings and work sessions.

Priority issues taken up by the committee were almost evenly split between construction and property management related proposals. The committee participated in lobbying efforts that resulted in defeat of mandatory building energy benchmarking, several bills increasing fees and development exactions, an attempt to broadening application of the recordation tax, and passage of favorable environmental and building code legislation. **A quick list of priority bills can be found in the shadowbox on Page 4.** Those priority bills affecting land use, construction and property management are summarized in the pages below. Click on the bill number to links to background information and to copies of the bills. Following the priority bill summaries is a spreadsheet listing all of the bills reviewed by the MAIOP Legislative Committee including a short explanation of what the proposed to do, its final status and links to additional, more detail information.

Regular membership dues to the Maryland Chapter of NAIOP do not fund the Chapter’s state and local legislative activities. It is contributions by members of the NAIOP Developers Council’s **Penny Per Square Foot Fund** that provide a dedicated source of funding for full time lobbying staff, fund litigation and policy related academic research and support the activities of the MAIOP legislative committee. Led

**2011 MAIOP Legislative Committee**

**Chairman - Tom Pilon – St. John Properties**

Arthur Adler – Caves Valley Partners  
 Scott Barhight – Whiteford, Taylor and Preston  
 Ken Bernstein – David S. Brown  
 Michele Cohen – Miles & Stockbridge  
 Andrew Der – Whitman Requart  
 Bill Erskine – Miles & Stockbridge  
 Thomas Fahs – Corporate Office Properties  
 Michael Gardner – Gardner Companies  
 Peter Garver – Garver Development  
 Brendan Gill – MacKenzie Commercial  
 Rob Hoffman – Venable LLC  
 Pat Hughes – Hughes Associates  
 James Knott – Knott Development  
 Jim Lighthizer – Chesapeake Realty Group  
 Wayne Lingafelter – Corporate Office Properties  
 John Macsherry – Duke Realty  
 Robb Merritt – Merritt Properties  
 Sally Modjeska – NAIOP – Maryland/DC  
 Bill Monk – MRA - GTA  
 Chris Nevin – M&T Bank  
 Dan Pallace – Merritt Properties  
 Howard Perlow – Residential Title  
 Vonda Peterson – Creative Access  
 Lee Sachs – David S. Brown  
 Cole Schnorf - Manekin  
 Bob Schofield – Akridge  
 J.M. Shapiro – Continental Realty  
 Mark Thompson – Real InSITE  
 Marilee Tortoreli – MRA - GTA  
 Cathy Ward – Corporate Office Properties  
 Karen Watsic – Preston Partners  
 Dianna Wilhelm – Wilhelm Construction  
 Jerry Wit – St. John Properties

**Lobbyist - Tom Ballentine – NAIOP - Maryland**  
**Contract Lobbyist - Nick Manis, Manis, Canning**

by Corporate Office Properties, Merritt Properties and St. John Properties, 14 NAIOP companies voluntarily pay assessments based on a penny per square foot of Maryland office space under management.

**Freshman Legislators and Budget Constraints**

On January 12<sup>th</sup> 30 new Delegates and 10 new Senators were sworn in along with the returning members of the 2011 General Assembly. The November elections brought Republicans six additional seats in the in the House of Delegates but even with those gains the partisan split remains 98 to 43 in favor of the Democrats. Of the 10 new Senate members 8 are former Delegates who simply move across Bladen Street to offices in the Senate office building. The partisan makeup of 33 Democrats to 14

Republicans in the Senate represented no change in the number of seats held by either party. Even so the November elections saw the departure of a number of business minded Democrats moving the tenor of the body to the left.

In addition to swearing in and the basic orientation needed for the freshman, many returning members were assigned to new committees leading to several weeks of general briefings from state agencies and local governments. After this slow and largely ceremonial start, the newly elected 2011 General Assembly picked up the pace introducing more than 2,000 bills including a number of divisive issues that brought raw arguments over religion, race and sexual orientation to the floor of the House and Senate.

The **contentious and bitter debate** over same sex marriage, providing in-state college tuition to undocumented or illegal immigrants and assigning responsibility for unfunded state worker pension and health care obligations made for divisions even within the usually unified Democratic caucus. The Senate Republican leadership was the subject of last minute restructuring when Minority Leader Allan Kittleman abruptly resigned his leadership position over his support for legalizing civil unions between same sex couples. Other bills that took center stage funneled more operating dollars to horse racing, sweetened the deal for slots bidders at Rocky Gap Resort, and increased the tax on alcohol.

As has been often the case in recent years, **budget** concerns overshadowed much of the 2011 session and will continue to have a significant effect on future sessions. In

December the assembly’s Spending Affordability Committee issued its outlook, analysis and fiscal recommendations. The committee recommended that the legislature craft budgets that reduce the state’s \$2 billion structural deficit by 33.3% in each of the next three fiscal years. In addition the panel recommended retaining a rainy day fund equal to 5% of the budget and freezing state employment at

**Maryland’s Budget and Debt**

- \$1.9 Billion = Structural Budget Deficit in December 2010
- 87% = % of Total Spending Covered by Ongoing Revenues
- -93% = Reduction in One Time Revenues Such as Federal Stimulus Projected for 2010-2016
- -57% = Reduction in State Aid to Local Governments 2007-2012
- 108% = Increase in State Bond Debt 2000 – 2011
- 238% = Projected Increase in Transportation Debt 2000 – 2016
- \$3.7 Billion = Gap Between 2012 -2016 Bond Requests and Spending Affordability Committee Recommended Debt Limit
- 33.3% = Spending Affordability Committee Recommended Deficit Reduction Target for 2012-2014 State Budgets
- 44% = Reduction in Structural Deficit in the FY 2012 State Budget
- \$10 Billion = Unfunded Cost of Mandated Chesapeake Bay Cleanup Not Included in the Official Deficit

79,500 workers. The recommendations and projections set a grim and difficult path of debt reduction, fee and tax increases over the next four years and killed almost any bill that required new spending. For the fiscal year 2012 state budget the Assembly used a combination of cuts, an increase in the alcohol tax and some usage fees to cut 44% of the structural deficit. A gap between ongoing revenues and spending of about \$1 billion remains for the 2013 and 2014 budget years. Cuts and tax increases will certainly be considered as a method of closing the remaining 56% gap but increased tax revenues from an improving economy are expected to carry some of the load by generating almost 4% more tax revenue by 2013.

2011 reductions in the structural deficit were achieved in part by **pension reform** to address the benefit structure and long term liabilities of the state employee pension and health insurance system. The changes which included increases in employee contributions did not address the long term affordability of the state continuing to pay the full employer contribution for teacher pensions. Six years ago teacher pension costs to the state were \$475 million in 2012 pension payments will be \$1.1 billion an amount about equal to the entire structural deficit in the state budget.

**MAIOP Priority Bill Summaries**

The Maryland Energy Administration is charged with setting and implementing the state’s energy policy including the goal of reducing per capita electric use by 15% before 2015. One of the Administration’s preferred methods of reducing energy use is standardizing the point of sale information about the relative energy efficiency of commercial and residential buildings. Arguing that buyers and sellers do not know enough about building energy use when they make buying and leasing decisions, advocates introduced six bills requiring that sellers or landlords provide energy use information in 2011. Of most concern to the MAIOP Legislative Committee were **SB 261** and **HB 718** which **mandated energy benchmarking and disclosure** by all commercial buildings more than 10,000 square feet in size. The bills required that owners of these buildings annually benchmark energy use using the EPA Portfolio Manager and disclose the results to prospective tenants and purchasers. The bills also granted purchasers and tenants the right to rescind contracts and leases based on the results up to 60 days after taking possession of the property.

The bills started with strong lead bill sponsors: Senator Brian Frosh Chair of the Senate Judicial Proceedings Committee and Delegate Maggie McIntosh, Chair of the House Environmental Matters

**Top Industry Issues in the 2011 General Assembly Session**

- [SB 261 / HB 718](#) -Mandatory Building Energy Consumption Benchmarking - *Failed in House and Senate*
- [HB 972](#) - Optional Use of the ICC Green Building Code - *Passed*
- [SB 487 / HB 573](#) -Mandatory Use of Low Nitrogen and Phosphorous Fertilizers - *Passed*
- [HB 1064](#) - Establishment of a State-wide Impervious Surface Fee – *Failed in House*
- [SB 752 / HB 847](#) - Cumulative Environmental Impact and Alternatives Analysis Prior to Development Approval – *Failed in House and Senate*
- [HB 1050](#) – Extending 2009 Legislation Tolling Permits and Approvals– *Passed House, Failed in Senate Committee*
- [HB 420](#) - Applying the Recordation Tax to Indemnity Deeds of Trust – *Failed in House*
- [SB 781 / HB 976](#) -Mandatory Building Service Worker Retention – *Failed in House and Senate*
- [SB 215 / HB 1349](#) - Authorizing Collection of Developer Proffers for TOD Projects – *Passed Senate, Failed in House Committee*
- [SB 861 / HB 1054](#) - Mandatory Purchase of Wind Generated Electricity – *Failed in House and Senate*
- [HB 474](#) - SHA and MDE Expedited Permit Review Process – *Failed in House*
- [HB 1241](#) - Prohibiting Nonagricultural Uses In Rural Legacy Areas – *Failed in House*

Committee and support from both the Maryland Energy Administration and the U. S. EPA. The bills were assigned to the respective committees Chaired by the bill sponsors and set for fairly early bill hearings.

**Barriers to Mandatory Energy Benchmarking**

- Many types of buildings are not eligible for a benchmark rating using Portfolio Manager
- Eligible buildings with more than 10% of floor area dedicated to secondary uses such as retail, food service, libraries or residential are not eligible for a benchmark rating
- Rating would require owners of 18,000 buildings collect and maintain detailed information about monthly business operations and utility use from their tenants
- Neither tenants nor public utilities are obligated to provide the necessary data; some are prohibited from doing so
- Benchmark ratings are based largely on energy use of the previous tenant and are not always indicative of future use or the performance of the building

Proponents argued that benchmarking is necessary because parties to the commercial real estate transaction do not have information adequate to compare the energy efficiency of buildings in the market. The U.S. Environmental Protection Agency sent an official to testify to the ease of use and utility of the Energy Star Portfolio Manager. It was argued that EPA Portfolio Manager was a free and relatively simple method of comparing the relative energy efficiency of commercial buildings. A commercial real estate panel with extensive experience using the Portfolio Manager on their own buildings pointed out that while EPA does make the Portfolio Manager software available at no charge, the industry had serious concerns with the cost and practical barriers to using the program as required in the bill. Collecting data from tens of thousands of building tenants receiving it in various formats with various levels of cooperation and resistance was a major barrier. Other industry concerns focused on the inability of the Portfolio Manager software to provide benchmark ratings for certain types of retail, commercial and industrial buildings.

After bill hearings in both the Senate Judicial Proceedings Committee and the House Environmental Matters Committee a series of amendments to the Senate version of the bill were drafted by bill sponsors but these proposed changes could not have brought the bill into a workable form. Eventually after being scheduled and pulled from successive committee voting lists the energy benchmarking bills died in committee.

During the summer of 2010 MAIOP and the Maryland State Homebuilders Association jointly commissioned extensive research into Chesapeake Bay water quality with an emphasis on identifying the most cost effective means of achieving EPA mandated pollutant reductions.

The research documented that a large part of bay pollution can be attributed to misuse of fertilizers and that certain **fertilizer use restrictions in urban areas** had the potential to achieve a 25-50 percent reduction in phosphorous runoff and a 10-20 percent reduction in nitrogen runoff from urban turf grass. Based on these values it was estimated that more than 40 – 50 percent of the total pollutant reductions required for urban areas could be achieved through low cost changes to the type and timing of fertilizer applications. Grounds maintenance contractors who service MAIOP members saw the parameters in the bill as accepted industry practice and indicated member companies would not experience deterioration of their landscaped areas as a result. Given the cost of alternative pollutant reduction techniques such as retrofitting urban land with storm water management practices and upgrading wastewater treatment plants can cost thousands of dollars per pound of pollutant removed, it became apparent that using fertilizers more carefully was in the best interests of the industry.

Of the six bills introduced to implement fertilizer use restrictions MAIOP supported [SB 487](#) / [HB 573](#) which limit the amount of nitrogen and phosphorous in retail fertilizers, require the use of slow release products, set time of year restrictions on when fertilizers can be applied. The bills passed both the House and Senate.

Building codes and their local use must be authorized by the Department of Housing and Community Development as part of the state wide building performance standards. Local governments are then permitted to adopt the codes with the addition of local amendments. [HB 972](#) authorizes the Department of Housing and Community Development to **approve use of the International Code Council's International Green Construction Code** in Maryland and provides local governments with the option of adopting the code for local use. The code is written as an overlay to the standard building code that can be applied at the discretion of the builder. MAIOP supported the adoption because the code was recently chosen as the preferred building code by the U.S. Army and it provides an alternative method of building high performance buildings not now available. HB 972 passed the House and Senate.

Estimates of the cost of Chesapeake Bay cleanup between now and 2017 run at least \$10 billion and could be higher and have no current funding source. **A fee on impervious surface** has for many years been the preferred method of paying the costs of retrofitting urban areas built prior to the use of modern storm water management techniques. [HB 1064](#) would have required that every county and municipality establish an impervious surface fee dedicated to pay the costs associated with local storm water management programs. Although many in the industry see the practical reality that mandated EPA water pollution controls need to be funded through broad based approaches, the industry again opposed the 2011 version of the impervious surface fee. Among the problems with the bill was its insistence that commercial property owners pay the fees at a higher rate than other classes of property and the absence of any system to reduce the fee by crediting property owners for storm water management practices installed to meet regulatory requirements. HB 1064 failed in the House Environmental Matters Committee but is sure to be back in future sessions with much stronger support from legislative leaders.

Proponents of the concept of environmental justice argue that low income, disadvantaged area of the state receive a disproportionate share of noxious and undesirable land use activities. As a result, for two years running legislation requiring a **cumulative environmental impact and alternatives analysis** as a condition of development approval has been introduced in Annapolis. [SB 752](#) / [HB 847](#) would require the Maryland Department of Environment to map environmentally disadvantaged areas and establish more rigorous regulatory requirements for development inside those areas. The bill applied to large, controversial uses like landfills but also was drafted to affect storm water discharge permits required from almost all development applicants. Both bills failed in committee.

In 2009 MAIOP teamed with the shopping center homebuilding industries to pass legislation **tolling the expiration of development permits and approvals**. The 2009 legislation gave extended life to building permits and development plan approvals issued in 2008 and 2009 by tolling their expiration, adding as important time their validity. The bill was passed over the strong objection of the Maryland Association of Counties and the environmentalists by legislators who recognized the severity of the real estate recession. [HB 1050](#) would have extended the provisions of that bill until December 2012. Again in 2011 the bill was strongly opposed by the counties and the environmental community who argued the bill was an unreasonable state mandate on local government, difficult to administer and a method for developers to avoid important changes to environmental regulations. The bill passed out of the House Environmental Matters Committee, passed the House of Delegates but was blocked from coming to a vote in Senate Committee.

2011 again saw another attempt to **apply the recordation tax to Indemnity Deeds of Trust**. As those who use them know, the Indemnity Deed of Trust (IDOT) is a method of collateralizing a loan where a third party accepts a future, contingent liability on a building or other real property that they own in order to guarantee a primary loan taken out by another person. The IDOT liability is “contingent” because the debt and the associated recordation taxes are only incurred if the primary borrower defaults on their loan. The recordation tax payment will be triggered if the primary borrower defaults and the primary loan becomes debt incurred by the person who guaranteed payment by via the IDOT. Since their inception recordation taxes in Maryland have only been imposed when a debt is incurred. HB 240 contradicts this long established legal principle.

The industry position is simply that someone who guarantees a loan through an IDOT should not be taxed in the same way as the primary borrower. But MAIOP also opposed HB 420 because the IDOT provides important access to capital for small businesses, an option that is especially important because of the difficulty many have gaining access to investment capital from banks and capital markets. Finally the recordation tax is frequently used by local governments to fund school construction and other growth related capital expenditures. The rationale for this is that recording instruments associated with the purchase of real property has been seen as an indicator of increased demand for public services such as school capacity. No such nexus or direct connection exists between recording of an IDOT to guarantee a loan and the need to increase school capacity or provide other growth related services.

This year the bill was drafted to exclude IDOTs guaranteeing payments of less than \$5 million. The change was designed to take one of the most powerful arguments away from opponents who have often pointed out that IDOTs are used by parents to assist in a home purchase by their children. [HB 420](#) failed in the House Ways and Means Committee but is sure to come back as the pressure to fill budget gaps grows more intense.

[SB 781](#) / [HB 976](#) would have required that when building service contracts are moved from one employer to another or a building is sold the **service workers on site retain their jobs for 90 days** and that hiring preference be given to former workers. The bill applied to vendors and service providers to schools, hospitals, museums as well office buildings or parks with 75,000 square feet or more of space. Despite strong union support the bills failed in their respective House and Senate committees.

[SB 215](#) / [HB 1349](#) would have authorized local governments to establish an **unregulated impact fee** to fund the operations of social service organizations and pay for infrastructure improvements within 2 miles of transit oriented development sites state wide. The bill authorized the diversion of land sales, ground rents, bond proceeds and developer contributions to a special fund to be utilized for community enhancement projects near transit stations. After amending the bill to apply only to Baltimore City the Senate passed the bill over to the House where it failed in committee.

The Maryland General Assembly has adopted a renewable energy requirement that utilities operating in the state purchase 20 percent of their power from renewable sources by 2022. With just over ten years to reach the target utilities are buying just over 5% of power from wind and solar. Failure to make progress toward those goals will trigger fiscal penalties that will force public utilities and their customers to pay \$7.6 million. The Maryland Energy Administration sees **offshore wind power** as the way to fill the gap. [SB 861](#) / [HB 1054](#) would have required Maryland utilities to enter into purchase agreements with the developers of a wind farm located in the Atlantic Ocean off of Ocean City. The cost of the project was estimated by some to be more than \$1 billion but legislative analysts could not accurately estimate the cost to the electric consumer. The compromise position put forward by the

O'Malley administration was a statutory cap on the increase in utility bills of xxx% per month. Concerned that the actual costs associated with the project could not be firmly estimated and having a low level of confidence that subsequent legislatures could easily pass legislation increasing the statutory cap or removing it all together MAIQP's legislative committee took a position in opposition to the bill. Late in the session MAIQP teamed with the Building Owners and Managers Association and the Apartment Builders and Owners Association to urge that legislative leaders take the summer to fully evaluate the implications of mandating the purchase of off shore wind generated electric power. Both bills were held in committee and will be the subject of intensive summer work.

**HB 474** had its origins in concerns that BRAC related projects in Harford County would not be on line in time to accommodate the movement of new assets into Aberdeen Proving Ground. The bill required the Maryland Department of Environment and the State Highway Administration to develop procedures to provide **expedited permit review** to projects that had been given a priority designation by local governments. The bill was initially seen as too broad by the House Environmental Matters Committee and amended to apply only in Priority Funding Areas, BRAC areas and other priority areas listed by the committee. After passing out of committee the bill faced strong opposition on the House floor from Republicans and Democrats from rural areas who saw the committee amendments as putting important projects in rural locations to the back of the review queue. Facing this kind of opposition the bill was recommitted to the Environmental Matters Committee and failed to come back out before the end of the session.

Baltimore County land preservationists opposed to a BGE utility substation brought their case to Annapolis in the form of **HB 1241**. The bill would have prohibited electric substations and any nonagricultural land use of five acres or more from being located in a designated Rural Legacy Area. MAIQP opposed the bill on the grounds that Rural Legacy Areas were intended to be a method of identifying areas that would be considered priority locations for agricultural preservation grants. Rural Legacy areas were never intended to become a state administered zoning overlay. Furthermore, even Maryland's Smart Growth laws and regulations recognize the need to locate infrastructure assets that serve growth areas outside of urban centers. HB 1241 failed in the House Economic and Environmental Matters Committees.

The spreadsheet below lists all of the bills reviewed this year by the MAIQP Legislative Committee. The bills are grouped by subject matter: Construction and Building Codes, Environment, Planning and Zoning, Property and Business Management, Professional Licenses, Taxes and Fees and, Transportation. If you have questions or would like additional information please contact Tom Ballentine, at 410-977-2053 or [naiop.md.tom@verizon.net](mailto:naiop.md.tom@verizon.net)

### **Construction and Building Codes**

**SB 387 / HB 910 Status as of March 21, 2011: Senate - Unfavorable Budget and Taxation / House - Withdrawn Health and Government Operations**

High Performance Buildings Act - Applicability to Recipients of State Aid

Senate: *Budget and Taxation* House: *Health and Government Operations and Appropriations*

Requires that by 2015 all projects that receive \$100,000 or more in state capital grants build to LEED Silver. Phases the requirement beginning in 2012 the state aid must comprise 50% of the project cost, 40% in 2013, 25% in 2014.

**MAIQP Position: +2 w/a**

**HB 972 Status as of April 4, 2011: Bill is in the House - Passed Enrolled**

Building Codes - International Green Construction Code  
 House: *Environmental Matters* Senate: *Education Health and Environmental Affairs*  
Authorizes DHCD to adopt the International Code Congress Green Building Code as an option for local government.  
**MAIOP Position: +3 w/a**

**Environment**

**SB 129 / HB 232 Status as of February 22, 2011: Senate - First Reading Education Health and Environmental Affairs / House - First Reading Ways and Means**

Task Force to Study the Development of Wetland Teaching Projects at Secondary Schools  
 Senate: *Education Health and Environmental Affairs* House: *Ways and Means*  
Sets membership and scope of task force charged with creating wetlands school curriculum - MAIOP Position: NP

**SB 131 Status as of February 21, 2011: Bill is in the Senate - Unfavorable Education Health and Environmental Affairs**

Maryland Water Quality Revolving Loan Fund - Loan Forgiveness  
 Senate: *Education Health and Environmental Affairs* (Hearing: February 8, 2011, 1:00 p.m.)  
Forgives principle payments on Water Quality Loan Fund loans made after January 1, 2010. MAIOP Position: NP

**SB 153 Status as of February 21, 2011: Bill is in the Senate - Unfavorable Education Health and Environmental Affairs**

Reorganization of State Government - Consolidating the Department of the Environment into the Department of Natural Resources  
 Senate: *Education Health and Environmental Affairs*  
Consolidates the DNR and MDE Functions. MAIOP Position: NP

**SB 160 / HB 177 Status as of February 2, 2011: Senate - First Reading Education Health and Environmental / House - First Reading Environmental Matters Affairs**

Environment - On-Site Sewage Disposal Systems - Nitrogen Removal  
 Senate: *Education Health and Environmental Affairs and Budget and Taxation* House: *Environmental Matters*  
Requires installation of nitrogen reduction septic systems in new septic served buildings constructed in the watersheds of the Chesapeake and Atlantic Coastal Bays. MAIOP Position: 0

**SB 198 Status as of February 21, 2011: Bill is in the Senate - Unfavorable Education Health and Environmental Affairs**

Stormwater Management - Regulations - Applicability  
 Senate: *Education Health and Environmental Affairs*  
Applies 2009 stormwater management regulations to subdivision of one residential lot into two. MAIOP Position: NP

**SB 372 / HB 347 Status as of April 2, 2011: Senate - Passed Enrolled / House - Passed Enrolled**

Environment - Nitrogen Removal Technology - Evaluation and Ranking  
 Senate: *Education Health and Environmental Affairs* House: *Environmental Matters*  
Requires MDE to rank N reduction septic systems based effectiveness and cost. Rating will be used as criteria to determine availability of funding from Bay Restoration Fund. MAIOP Position: NP

**SB 487 / HB 573 Status as of April 7, 2011: Senate - Passed Enrolled / House - Passed Enrolled**

Fertilizer Use Act of 2011  
 Senate: *Education Health and Environmental Affairs* House: *Environmental Matters*  
Chesapeake Bay Commission / Task Force Bill. Regulates the time, amount and product labeling of N and PH fertilizer use in urban areas. MAIOP Position: +3

**SB 544 / HB 687 Status as of March 21, 2011: Senate - First Reading Education Health and Environmental Affairs / House - Unfavorable Environmental Matters**

Chesapeake Bay Nitrogen Reduction Act of 2011

Senate: *Education Health and Environmental Affairs* - House: *Environmental Matters*

Attny General's Fertilizer regulation bill. Regulates labeling and directs regulatory implementation of standards for application. MAIOP Position: +1

**SB 546 / HB 706 Status as of February 9, 2011: Senate - First Reading Education Health and Environmental Affairs / House - Unfavorable Environmental Matters**

Chesapeake Bay Phosphorus Reduction Act of 2011

Senate: *Education Health and Environmental Affairs* - House: *Environmental Matters*

Attny General's Fertilizer regulation bill. Regulates labeling and directs regulatory implementation of standards for application. MAIOP Position: +1

**SB 552 / HB 668 Status as of March 25, 2011: Senate - Withdrawn Education Health and Environmental Affairs / House - Withdrawn Environmental Matters**

Environment - Local Stormwater Charges - State Property

Senate: *Education Health and Environmental Affairs* House: *Environmental Matters*

Requires that state property pay locally adopted stormwater management fees – MAIOP Position: +2 w/a

**SB 783 Status as of March 10, 2011: Bill is in the Senate - First Reading Budget and Taxation**

Estate Tax - Qualified Agricultural Property - Forest Banking Operations

Senate: *Budget and Taxation* (Hearing: March 10, 2011, 1:00 p.m.)

Broadens existing law providing a delay in the payment of estate taxes to apply to land in a qualified forest bank – MAIOP Position: NP

**SB 785 Status as of April 1, 2011: Bill is in the Senate - Withdrawn Education Health and Environmental Affairs**

Agriculture - Pesticides - Use, Release, Sale, and Purchase Reporting

Senate: *Education Health and Environmental Affairs* (Hearing: March 8, 2011, 1:00 p.m.)

Establishes reporting requirement on the purchase and use of pesticides including landscape and pest control chemicals. Assesses fees and a surcharge to fund the program – MAIOP Position: 0

**SB 827 / HB 415 Status as of April 8, 2011: Senate – Passed / Bill is in the House - Unfavorable Environmental Matters**

Environment - Severn River Watershed - Silt and Erosion Control - Certification

Senate: *Education Health and Environmental Affairs* House: *Environmental Matters*

Permits surveyor or landscape architect to certify sediment control plans in Severn River Watershed.- MAIOP Position: NP

**SB 873 Status as of March 2, 2011: Bill is in the Senate - Re-referred Judicial Proceedings**

Private Property Rights - Regulatory Infringement - Compensation

Senate: *Judicial Proceedings* (Hearing: March 23, 2011, 1:00 p.m.)

Grants a property owner the right to sue the State for damages if the application of a regulation by the Maryland Department of the Environment (MDE), the Department of Natural Resources (DNR), or the Maryland Department of Planning (MDP) restricts, limits, or otherwise infringes on a right to the private property that would exist absent the application of the regulation. MAIOP Position: 0

**HB 57 Status as of April 6, 2011: Bill is in the House - Returned Passed**

Environment - Bay Restoration Fund - Authorized Uses

House: *Environmental Matters* Senate: *Education Health and Environmental Affairs*

Allows cost of connecting to sewer rather than replacing a failing septic to be paid from the Bay Restoration Fund. MAIOP Position: NP

**HB 278 Status as of February 28, 2011: Bill is in the House - Unfavorable Environmental Matters**

Chesapeake and Atlantic Coastal Bays Critical Area - Prospective Land Purchases - Inspections

House: *Environmental Matters* (Hearing: February 17, 2011, 1:00 p.m.)

Requires local government inspection of critical area lots at the request of prospective purchaser. MAIOP Position: -2

- HB 370**     **Status as of March 17, 2011: Bill is in the House - Unfavorable Environmental Matters**  
 Stormwater Management - Watershed Management Plans - Technical Assistance  
 House: *Environmental Matters*  
Requires that MDE provide assistance to local governments in developing Watershed Management Plans that are prerequisite for approval of offsite SWM mitigation. MAIOP Position: +1
- HB 371**     **Status as of March 17, 2011: Bill is in the House - Unfavorable Environmental Matters**  
 Department of the Environment - Stormwater Management Ordinance - Cost Study  
 House: *Environmental Matters*  
Requires MDE to study the cost to fully implement 2009 stormwater regulations. Industry position was to argue for and amended scope that would focus MDE on providing cost and scenario building for local Chesapeake Bay cleanup plans. MDE has developed a computer based assessment tool - MAIOP Position: +2 w/a
- HB 532**     **Status as of February 28, 2011: Bill is in the House - Withdrawn Environmental Matters**  
 Bay Restoration Fund - Fee Exemption  
 House: *Environmental Matters*     (Hearing: March 2, 2011, 1:00 p.m.)  
Expands BRF fee exemption to include those served by WWTP that has received a grant from the fund and have paid fees equal to the grant amount. MAIOP Position: 0

**Planning and Zoning**

- SB 302 / HB 237**     **Status as of April 6, 2011: Senate - Returned Passed / House - Returned Passed**  
 Baltimore City - Zoning Requirements - Administrative Adjustments  
 Senate: *Education Health and Environmental Affairs*     House: *Environmental Matters*  
Authorizes Baltimore City to approve administrative waivers to its zoning code. MAIOP Position: +2
- SB 752 / HB 847**     **Status as of February 9, 2011: Senate - First Reading Education Health and Environmental Affairs / House - Withdrawn Environmental Matters**  
 Environment - Permitting Process - Environmental Justice Review  
 Senate: *Education Health and Environmental Affairs*     (Hearing: February 22, 2011, 1:00 p.m.)  
Requires environmental review and alternatives analysis prior to permitting various environmental permits in MDE designated environmentally stressed areas. Affects stormwater discharge permits. MAIOP Position: -3
- SB 846 / HB 1107**     **Status as of March 2, 2011: Senate - Re-referred Education Health and Environmental Affairs / House - First Reading Environmental Matters**  
 Sustainable Growth and Agricultural Preservation Act of 2011  
 Senate: *Education Health and Environmental Affairs*     House: *Environmental Matters*  
Requires use of nitrogen reduction septic and share systems in certain rural residential developments circumstances. Limits further subdivision of developed property – MAIOP Position NP
- HB 8**     **Status as of February 21, 2011: Bill is in the House - Unfavorable Environmental Matters**  
 Eminent Domain - Condemnation Proceedings and Limitation on Condemnation Authority  
 House: *Environmental Matters*     (Hearing: February 10, 2011, 1:00 p.m.)  
Prohibits condemnation for economic development purposes. MAIOP Position: NP
- HB 474**     **Status as of March 25, 2011: Bill is in the House - Recommit to Committee Environmental Matters**  
 Construction and Development Projects - Expedited Approval of State Permits  
 House: *Environmental Matters*  
Requires MDE and SHA to adopt fast track process for projects recognized as fast track by a local government. MAIOP Position: +3
- HB 948**     **Status as of March 14, 2011: Bill is in the House - Unfavorable Environmental Matters**  
 Land Use - State Rail Station Overlay Districts  
 House: *Environmental Matters*  
Allows local governments to establish joint / state regulated zoning overlay districts near rail stations. MAIOP Position: 0 /-1

**HB 1241 Status as of March 21, 2011: Bill is in the House - Re-referred Environmental Matters**

Natural Resources - Rural Legacy Area - Prohibited Uses

House: *Environmental Matters and Economic Matters* (Hearing: March 23, 2011, 1:00 p.m.)

Prohibits siting of electric utility substations, shopping centers and any other non-agricultural uses in a Rural Legacy Area. MAIOP Position: -3

**HB 1050 Status as of March 28, 2011: Bill is in the Senate - First Reading Education Health and Environmental Affairs**

Construction Permits - Expiration Dates

House: *Environmental Matters* Senate: *Education Health and Environmental Affairs*

Extends tolling of permits and approvals until December 2012. MAIOP Position: +3

**Professional Licenses**

**SB 234 Status as of April 5, 2011: Senate – Passed / House – Passed / Senate Refuses to Recede / Conference Committee Appointed**

State Real Estate Commission - Sunset Extension and Program Evaluation

Senate: *Education Health and Environmental Affairs* House: *Economic Matters*

Reauthorizes and extends the Maryland Real Estate Commission, increases to \$50,000 limit of awards from guarantee fund. MAIOP Position: NP

**SB 290 Status as of April 5, 2011: Bill is in the Senate - Returned Passed**

State Board for Professional Engineers - Examinations

Senate: *Education Health and Environmental Affairs* House: *Economic Matters* (Hearing: March 29, 2011, 1:00 p.m.)

Alters the format and length of licensing exam for professional engineers. MAIOP Position: NP

**SB 293 Status as of April 5, 2011: Bill is in the Senate - Returned Passed**

State Board of Examiners of Landscape Architects - Applicants for Licensure - Educational and Experience Requirements

Senate: *Education Health and Environmental Affairs* House: *Economic Matters* (Hearing: March 29, 2011, 1:00 p.m.)

Alters the educational and professional work experience necessary for landscape architects. MAIOP Position: NP

**SB 658 Status as of April 6, 2011: Bill is in the Senate - Passed Enrolled**

State Commission of Real Estate Appraisers and Home Inspectors - Special Fund and Registration and Regulation of Real Estate Appraisal Management Companies

Senate: *Finance* House: *Economic Matters*

Establishes registration and professional conduct requirements for appraisal management companies. MAIOP Position: NP

**Property and Business Management**

**SB 111 / HB 179 Status as of April 4, 2011: House – Passed / Bill is in the Senate - Unfavorable Education Health and Environmental Affairs**

Environment - Recycling - Apartment Buildings and Condominiums

Senate: *Education Health and Environmental Affairs*

Establishes recycling requirement for residential apartment and condominium buildings. MAIOP Position: NP

**SB 191 / HB 117 Status as of April 12, 2011: Passed Became Law - Chapter 33 & 34**

Real Property - Obliterating, Damaging, or Removing Property Markers - Penalty Increase

Senate: *Judicial Proceedings* House: *Environmental Matters*

Increases penalty for altering a property marker. MAIOP Position: NP

- SB 210**    **Status as of April 11, 2011: Senate – Passed / Bill is in the House - Unfavorable Economic Matters**  
 Real Estate Settlements - Paying or Receiving Consideration - Penalties  
 Senate: *Finance*    House: *Economic Matters*    (Hearing: March 29, 2011, 1:00 p.m.)  
Broadens and increases penalties for violation of prohibitions on taking or receiving consideration in connection with real estate settlements. MAIOP Position: NP
- SB 261 / HB 718**    **Status as of February 2, 2011: Senate - First Reading Judicial Proceedings / House - First Reading Environmental Matters**  
 Real Property - Commercial Buildings - Disclosures  
 Senate: *Judicial Proceedings*    House: *Environmental Matters*  
Requires all commercial buildings over 10k sq/ft to complete annual energy benchmark using Energy Star Portfolio Manager and to disclose results to prospective purchasers and tenants. Grants contract purchasers and contract tenants right to rescind contract up to 60 days after taking possession of the property – MAIOP Position: -3
- SB 266**    **Status as of March 21, 2011: Bill is in the Senate - Unfavorable Judicial Proceedings**  
 Real Property - Common Ownership Communities - Dispute Settlement Mechanism  
 Senate: *Judicial Proceedings*  
Establishes notice and dispute resolution process for residential condominium and HOAs. MAIOP Position: NP
- SB 570**    **Status as of April 7, 2011: Senate – Passed / Bill is in the House - Re-referred Environmental Matters**  
 Raymond Scott Brown II Vehicle Towing Act  
 Senate: *Judicial Proceedings*    House: *Environmental Matters*  
Allows towing company to establish lien on towed vehicles, sets out notice and other procedures for towing and sale of vehicles – MAIOP Position: NP
- SB 572**    **Status as of April 11, 2011: Passed the Senate / House - Unfavorable Environmental Matters**  
 Raymond Scott Brown II Vehicle Towing Act  
 Senate: *Judicial Proceedings*    House: *Environmental Matters*  
Applies state-wide signage, notice and other procedures related to towing vehicles from parking lots – MAIOP Position: NP
- SB 601 / HB 741**    **Status as of March 22, 2011: Senate - First Reading Judicial Proceedings / House - Recommit to Committee Economic Matters**  
 Corporations and Real Estate Investment Trusts - Directors and Trustees - Duties and Immunity from Liability  
 Senate: *Judicial Proceedings*    House: *Economic Matters*  
Clarifies limits of immunity from liability for corporate directors and trustees. MAIOP Position: +1
- SB 606 / HB 719**    **Status as of March 15, 2011: Senate - Unfavorable Judicial Proceedings / House - Withdrawn Environmental Matters**  
 Residential Property Sales - Disclosure of Utility Consumption  
 Senate: *Judicial Proceedings*    House: *Environmental Matters*  
Requires utility bills or costs to be provided as part of listing for residential resales. MAIOP Position: NP
- SB 622**    **Status as of March 25, 2011: Bill is in the Senate - Unfavorable Finance**  
 Nonresidential Electricity and Gas - Energy Benchmarking and Disclosure - State Buildings  
 Senate: *Finance*  
Requires utility companies maintain records of consumption in format compatible with Energy Star and that state buildings 10,000 sq ft and larger obtain an energy star rating and disclose same to lessee, lender or purchaser. MAIOP Position: -1
- SB 781 / HB 976**    **Status as of February 9, 2011: Senate - First Reading Finance / House - Unfavorable Economic Matters**  
 Displaced Building Service Workers Protection Act  
 Senate: *Finance*    House: *Economic Matters*  
Requires the retention of workers when a building services contract is awarded to another company. MAIOP Position: -3 / DFR to BOMA

- SB 861 / HB 1054** Status as of February 18, 2011: Senate - Re-referred Finance / House - First Reading Economic Matters  
 Maryland Offshore Wind Energy Act  
 Senate: *Finance* House: *Economic Matters*  
Requires public utilities in Maryland to enter into long term contracts to purchase between 300 and 600 megawatts of electricity over the next 20 years. Total cost to non residential electric consumers could not be defined but capped by statute at an average of 2.5% per month to be determined by the Public Service Commission. MAIOP Position: -2
- HB 181** Status as of February 21, 2011: Bill is in the House - Withdrawn Environmental Matters  
 Anne Arundel County - Towing and Removal of Vehicles from Parking Lots  
 House: *Environmental Matters*  
Applies signage and towing procedural requirements to Anne Arundel County that are now law in Baltimore County and City. MAIOP Position: 0
- HB 449** Status as of March 8, 2011: Bill is in the House - Unfavorable Health and Government Operations  
 State Government - Regulations Affecting Small Businesses and Economic Impact Analysis  
 House: *Health and Government Operations*  
Broadens scope of fiscal impact analysis required for regulatory actions to include alternatives analysis and exemption of small business. MAIOP Position: +1
- HB 856** Status as of March 26, 2011: Bill is in the House - Withdrawn Economic Matters  
 Gas Companies - Infrastructure Replacement - Surcharge  
 House: *Economic Matters*  
Establishes a process for natural gas companies to file an infrastructure replacement plan with the Public Service Commission including a surcharge on residential and commercial customers to cover the cost of infrastructure replacement – MAIOP Position: 0
- HB 857** Status as of March 25, 2011: Bill is in the House - Unfavorable Health and Government Operations  
 Construction Contracts - Hiring Agreement  
 House: *Health and Government Operations*  
Broadens the types of state contracts that can be designated as eligible for hiring agreements that favor employment of graduates of Dept of Human Services program known as the Family Investment Program – MAIOP Position: NP
- HB 1129** Status as of February 11, 2011: Bill is in the House - First Reading Judiciary  
 Maryland Contributory Negligence Act  
 House: *Judiciary* (Hearing: March 2, 2011, 1:00 p.m.)  
Affirms that contributory negligence can be offered and considered as part of liability cases. MAIOP Position: +1

## **Taxes and Fees**

- SB 69 / HB 141** Status as of March 23, 2011: Bill Passed the Senate / Failed in the House Ways and Means Committee  
 Property Tax - Assessment Appeal Hearings - Right to Record  
 Senate: *Budget and Taxation* House: *Ways and Means*  
Establishes right of a taxpayer to record a property tax appeal hearing. MAIOP Position: NP
- SB 215 / HB 1349** Status as of March 30, 2011: Bill Passed the Senate / Failed in House Economic Matters Committee  
 Maryland Community Enhancement Transit-Oriented Development Fund  
 Senate: *Finance* House: *Economic Matters and Environmental Matters*  
Deposits undefined developer contributions and proceeds from the sale or lease of TOD land into a state fund to be utilized to support the activities of qualified recipients and community enhancement activities as defined in the bill. Senate amendments apply the bill to Baltimore City only and reduce the scope to ½ mile from transit stations. MAIOP Position: -2 As Introduced /-1 As Amended

- SB 646** Status as of March 18, 2011: Bill failed in the Senate Budget and Taxation Committee  
Economic Development - Green Business Incentive Zones  
Senate: *Budget and Taxation and Finance* (Hearing: March 23, 2011, 1:00 p.m.)  
Creates process for designation of green business zones. Provides for establishment of tax credits and other incentives within the designated areas – MAIOP Position: NP
- HB 420** Status as of February 9, 2011: Bill failed in the House Reading Ways and Means Committee  
Recordation Tax - Indemnity Mortgages  
House: *Ways and Means* (Hearing: February 23, 2011, 1:00 p.m.)  
Applies recordation tax to Indemnity Deeds of Trust valued at greater than \$5 million. MAIOP Position: -3
- HB 463** Status as of April 7, 2011: Bill Passed House and Senate - Enrolled  
Property Tax - Semiannual Payment Schedule - Business Property  
House: *Ways and Means* Senate: *Budget and Taxation* (Hearing: March 29, 2011, 1:00 p.m.)  
Broadens scope of semi-annual tax payments to include all business property. Senate amendments reduced the scope to apply to property valued up to \$???. MAIOP Position: +1
- HB 828** Status as of February 16, 2011: Bill failed in the House Ways and Means Committee  
Frederick County - Municipal Corporations - Building Excise Tax  
House: *Ways and Means* (Hearing: March 8, 2011, 1:00 p.m.)  
Allows municipalities in Frederick County to keep building excise tax collected from projects in the town – MAIOP Position: NP
- HB 1064** Status as of February 11, 2011: Bill failed in the House Environmental Matters Committee  
Watershed Protection and Restoration Act  
House: *Environmental Matters* (Hearing: March 11, 2011, 1:00 p.m.)  
Requires that local government implement impervious surface fee to fund water quality initiatives. Requires that commercial fee be set higher than other land uses. MAIOP Position: -3

## **Transportation**

- SB 451** Status as of March 10, 2011: Bill is in the Senate - First Reading Budget and Taxation  
Transportation - Sales and Use Tax - Funding for Mass Transit Projects  
Senate: *Budget and Taxation* (Hearing: March 11, 2011, 1:00 p.m.)  
Applies sales tax to gasoline sales state-wide. Dedicates 25% of sales in specified counties to fund mass transit in those counties remainder of revenues would go to the Transportation Trust Fund – MAIOP Position: NP
- SB 543** Status as of February 23, 2011: Bill is in the Senate - First Reading Budget and Taxation  
Maryland Transportation Authority - Supplemental Tolls - Highway User Revenues for Municipalities  
Senate: *Budget and Taxation* (Hearing: March 15, 2011, 1:15 p.m.)  
Increases bridge and tunnel toll fees and dedicates proceeds to municipal highway maintenance and construction. MAIOP Position: NP
- SB 623** Status as of March 30, 2011: Senate - Passed / Bill is in the House - First Reading Environmental Matters  
Maryland Department of Transportation - Transit Review and Evaluation  
Senate: *Finance* House: *Environmental Matters* (Hearing: April 5, 2011, 1:00 p.m.)  
Creates task force directed to report on future demand for transit, best practices and priority corridors for transit. MAIOP Position: 0
- SB 677** Status as of March 10, 2011: Bill is in the Senate - First Reading Budget and Taxation  
Transportation Trust Fund - Dedicated Highway Funds  
Senate: *Budget and Taxation* (Hearing: March 11, 2011, 1:00 p.m.)  
Dedicates TTF monies to debt and principle payments on transportation bonds and other unspecified legal purposes. Dedicates vehicle related fees to highway construction and maintenance – MAIOP Position: +1

**SB 714 / HB 1001 Status as of February 16, 2011: Senate - First Reading Budget and Taxation / House - First Reading Ways and Means**

Transportation Trust Fund - Financing - Use of Funds

Senate: *Budget and Taxation* (Hearing: March 9, 2011, 1:00 p.m.)

Limits movement of TTF money to other purposes. Increases gas tax by 10 cents and indexes to CCI. MAIOP Position: +2

**SB 729 Status as of March 2, 2011: Bill is in the Senate - First Reading Budget and Taxation**

Transportation - Transit Authorities - Red Line and Purple Line

Senate: *Budget and Taxation and Finance* (Hearing: March 17, 2011, 1:15 p.m.)

Creates independent local transportation authorities with tax and bonding authority charged with financing Red and Purple subway / light rail lines – MAIOP Position: NP

**SB 812 Status as of March 25, 2011: Bill is in the Senate - Unfavorable Budget and Taxation**

Blue Ribbon Commission on Maryland Transportation Funding - Uniform Process for Local Priorities

Senate: *Budget and Taxation*

Expands the scope of duties assigned to the Blue Ribbon Commission on Transportation Funding to include recommendations on a uniform, state-wide process to determine local transportation priorities that would include consultation with elected officials at the state and local levels including state delegation members, county council and executives. MAIOP Position: -1

**HB 109 Status as of April 7, 2011: Bill is in the House - Returned Passed**

Transportation - Outdoor Signs Along Federal-Aid Primary Highways - Scenic Byways

House: *Environmental Matters* Senate: *Finance* (Hearing: March 29, 2011, 1:00 p.m.)

Prohibits SHA from issuing permit for signs on designated scenic highways. Federal requirement. MAIOP Position: 0

**HB 518 Status as of February 9, 2011: Bill is in the House - First Reading Appropriations**

Transportation Trust Fund Protection Act

House: *Appropriations* (Hearing: February 22, 2011, 1:00 p.m.)

Constitutional Amendment. Specifies revenues to TTF and limits use to declared state of emergency provided repayment plan and approved by 2/3 vote of the legislature. MAIOP Position: +1

**HB 591 Status as of February 23, 2011: Bill is in the House - First Reading Appropriations**

Transportation Trust Fund - Transfer or Diversion of Funds - Voter Approval

House: *Appropriations* (Hearing: March 10, 2011, 1:00 p.m.)

Requires referendum approval prior to transfer of money out of the Transportation Trust Fund . MAIOP Position: NP

**HB 926 Status as of March 25, 2011: Bill is in the House - Unfavorable Appropriations**

Dedicated State Funds Protection Act

House: *Appropriations*

Requires declaration of emergency, 3/5 vote of the legislature and repayment plan prior to diversion of dedicated funds – MAIOP Position: NP

**Bill Position Legend**

“NP”	No position, designating an issue that is not of interest to MAIOP or an issue that is of general interest to MAIOP that should be addressed by another organization.
“DFR”	Defer, designating an issue that is of interest to MAIOP but that should be addressed by another organization with MAIOP support.
“0”	Neutral position, designating an issue that is of interest to MAIOP but the committee does not favor putting lobbying resources into the legislation.
“+1” or “-1”	Lowest level of support or opposition, designating an issue that is of interest to MAIOP. No direct lobbying. A short statement on the MAIOP position will be submitted.
“+2” or “-2”	Moderate level of support or opposition, designating an important issue that would directly affect MAIOP. A more detailed position statement will be sent. Limited lobbying in the form of a phone call or meetings with key legislators.
“+3” or “-3”	Highest level of support or opposition, designating a key issue that would significantly affect MAIOP. Extensive lobbying in the form of meetings with the committees with jurisdiction and other key legislators, a detailed position statement, hearing testimony, MAIOP grassroots action and coalition building at the discretion of the Legislative Committee Chair, the President and the MAIOP staff.