

**CITY OF BALTIMORE  
COUNCIL BILL 10-0205R  
(Resolution)**

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Introduced by: Councilmembers Welch, Holton, D’Adamo, Branch, Stokes, Middleton, Curran,  
President Young, Councilmembers Conaway, Clarke, Reisinger, Spector, Henry  
Introduced and adopted: May 3, 2010

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**A COUNCIL RESOLUTION CONCERNING**

**In Opposition to Federal Legislation - S. 379/H.R. 848 – Performance Rights Act**

FOR the purpose of expressing opposition to the Performance Rights Act that would make radio stations pay royalties to all artists and musicians who participated in the recording of a song when the song is played on AM and FM radio, requesting the Honorable Members of the Maryland Delegation to the 111<sup>th</sup> Congress to oppose the legislation, and respectfully urging the President of the United States to veto the legislation should Congress adopt any provision of the Performance Rights Act.

**Recitals**

The Performance Rights Act, if passed, would require radio stations to pay a fee to everyone who performs on a recording, from the composer to the artist or artists, to the background musicians and singers, and to the person or company that owns the copyright to the song. Satellite radio, internet radio, and cable TV music channels currently pay fees to performers and songwriters. AM and FM radio stations, however, pay royalties only to the songwriters – not the performers.

In presenting the legislation to the U.S. House Committee on the Judiciary, which has reported the bill favorably, the sponsor stated, in part : “ ...the current situation is not fair to recording artists, musicians or the recording labels. When we hear a song on the radio, the person singing the lyrics or playing the melodies receives absolutely no compensation. ...Terrestrial radio is the only platform that does not pay. This exemption from paying a performance royalty to artists no longer makes sense and deprives the artists of the compensation they deserve for their work.”

The sponsor also testified that: the legislation is not a tax – all royalties generated will go to the copyright owners and creative artists; the legislation will bring over-the-air broadcasters in line with other music platforms; the bill will bring the United States in line with every other nation that grants performers a right to be compensated for their work when it is broadcast on terrestrial radio; the bill protects small broadcasters by setting a flat annual royalty fee; it caps the rate for non-commercial/public broadcasts stations; it provides an exemption for religious broadcasters; and it protects the performance royalties of non-featured musicians and featured artists.

The National Association of Broadcasters (NAB), the premier advocacy association for America’s broadcasters, advances radio and television interests in legislative, regulatory, and public affairs. Testifying in opposition to the companion legislation before the U.S. Senate Committee on the Judiciary, the Joint Board Chair of NAB offered testimony on behalf of over

EXPLANATION: Underlining indicates matter added by amendment.  
~~Strike out~~ indicates matter deleted by amendment.

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1 6,800 local radio members in opposition to the legislation stating, in part, that: "... this legislation  
2 will upend local radio broadcasting as you have always known it. As challenging as the radio's  
3 current economic landscape is, it will deteriorate even further if a performance fee were enacted.  
4 Already this year publicly traded companies are reporting revenues down as much as 25%."

5 "We strongly believe that local radio stations provide compensation to record labels and  
6 artists today. The artist is "paid" with free advertising and free exposure every time a radio  
7 station plays his or her music. Local free radio is the unique developer, exposor, promoter, and  
8 great populizer of new and old music, to multiple new and old generations of listeners."  
9 Economists estimate that radio air-play is directly responsible for up to \$2.4 billion a year in  
10 music sales – and that figure doesn't include the additional billions earned annually in concert or  
11 merchandise sales from radio promotions, artists' interview, and CD and concert giveaways.

12 NAB's testimony continued: "It's true radio competes with other listening platforms, but this  
13 competition has not diminished the extraordinary value of radio. Satellite radio has 18.6 million  
14 subscribers, and Internet Radio has approximately 42 million listeners. But these numbers are  
15 dwarfed by the 235 million listeners that over the air radio has each week. Radio is the number  
16 one way to expose, promote, and get music into the lives of the listeners who fund the recording  
17 industry through sales of music, concert tickets, and merchandise."

18 The owner of Radio One, which spans over 65 radio stations throughout every market in the  
19 country, including some of the most popular stations in the Baltimore -Washington metropolitan  
20 area, is seeking support in opposing what has become known as "the performance tax bill" and  
21 states that the bill "could put many black-owned radio stations out of business and force others to  
22 abandon their commitment to provide free music, entertainment, news, and information and  
23 severely affect money losing formats such as gospel and black talk". Facts supporting this  
24 position include:

- 25 • The promotional value of free local radio air play translates into significant revenues  
26 for artists and record labels – According to the Recording Industry Association of  
27 America, record sales in the U.S., in 2007, were approximately \$10.4 billion; touring  
28 revenue in 2007 was approximately \$5 billion. (These figures excluded several  
29 billion dollars derived annually from merchandise, songwriting royalties, and  
30 licensing deals for commercials, films, etc. It also excluded the boost from American  
31 popularity that triggers and boosts foreign sales and concerts.)
- 32 • Local radio also actively promotes artists by devoting considerable and valuable air  
33 time to promoting artists' concerts; featuring artist weekends; providing opportunities  
34 for live in-studio performances; and creating buzz through on-air ticket and album  
35 giveaways that help drive concert and merchandising revenue.

36 It is in the best interest of a City, whose residents face mounting fiscal challenges and who  
37 constitute part of a 235 million person constituency who listen to free radio each week, to retain  
38 access to the variety of music radio stations play and to keep smaller minority-owned stations  
39 whole. In addition, it is important to protect the vital public services these stations provide –  
40 generating \$6 billion in public service annually, providing vital news, community information,  
41 and free air-time to local charities across the nation.

42 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That this  
43 Body opposes passage of the Performance Rights Act that would make radio stations pay  
44 royalties to all artists and musicians who participated in the recording of a song when the song is

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1 played on AM and FM radio, requests the Honorable Members of the Maryland Delegation to  
2 the 111<sup>th</sup> Congress to oppose the legislation, and respectfully urges the President of the United  
3 States to veto the legislation should Congress adopt any provision of the Performance Rights  
4 Act.

5 **AND BE IT FURTHER RESOLVED**, That a copy of this Resolution be sent to the President of  
6 the United States, the Mayor, the Maryland Delegation to the 111<sup>th</sup> Congress, and the Mayor's  
7 Legislative Liaison to the City Council.