



## House Bill 355

### *Public Ethics Law – School Boards – Disclosures and Requirements (School System Ethics and Transparency Act of 2019)*

MACo Position: **SUPPORT**  
**WITH AMENDMENTS**

To: Ways and Means Committee

Date: March 7, 2019

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS HB 355 WITH AMENDMENTS**. The bill's unprecedented change to the fee provisions of the Maryland Public Information Act (PIA) should be deleted.

Much of HB 355 applies to the ethics, transparency, and lobbying of county school boards and does not directly affect county governments. However, MACo is concerned about the bill's ill-considered PIA provision that would require a records custodian to waive any fee if one-third or more members of a Board of Education make a PIA request. This change is unnecessary due to the numerous fee protections already found within the PIA and would establish a precedent for other types of requestors to seek mandatory fee waivers.

Currently under the PIA, requests taking less than 2 hours to assemble are free. After that, the custodian may apply a fee based on actual staff and assembly costs. A custodian already has the authority to waive or reduce a fee and there is a process for indigent requestors to ask for a fee waiver. Custodians typically work with requestors that have made overbroad or expensive PIA requests to narrow their request to the information that the requestor really wants. Aggrieved requestors can access a PIA ombudsman or for cases where a fee is \$350 or more, appeal to the Public Information Act Compliance Board.

However, under HB 355, a minority of a board's membership could make a PIA request costing thousands or even tens of thousands of dollars to prepare and leave the custodian with no recourse but to gather and provide the information for free. It does not matter if the request is overbroad or abusive – the custodian has no recourse under the bill.

The PIA currently provides adequate protections against custodians charging unreasonable fees. HB 355 would needlessly demolish these well-established protections and set a precedent for other types of requestors to avoid paying reasonable costs. Accordingly, MACo requests the committee to strike the provision and give HB 355 a report of **FAVORABLE WITH AMENDMENTS**.

#### **MACo PROPOSED AMENDMENT TO HB 355**

*This amendment would strike the bill's language prohibiting a record custodian from charging a fee for a record request made by at least three members of a Board of Education.*

On page 1, strike "prohibiting" in line 9 down through "circumstances;" in line 10.

On page 5, in line 10 strike "(1)"; and strike beginning with the semicolon in line 11 down through "REQUEST" in line 14.