



House Bill 492

Public Bodies – Use and Retention of E-Mail - Requirements

MACo Position: **OPPOSE**

To: Health and Governmental Operations Committee

Date: February 24, 2016

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **OPPOSES** HB 492. While supportive of transparency and open government, MACo believes the bill would disrupt existing county document retention policies that comply with current law; impose significant new costs on counties for storage and retention infrastructure; and ultimately increase the time and costs associated with email requests under the Maryland Public Information Act (PIA).

HB 492 prohibits an employee of a public body from using a personal e-mail account to create or maintain government email and to forward any government email received on a personal account to an official government account. The bill also requires a record custodian to retain email at least 7 years or in the case of a “senior employee” (as defined by the State Archivist) permanently.

MACo believes counties can and should have e-mail retention policies that comply with current law. Current policies balance the need for transparency and openness, public accessibility, and retention for liability protection against the cost and challenges of storing vast amounts of email in perpetuity. HB 492 would disrupt a system that has generally managed to balance these valid but sometimes competing concerns.

As the bill’s fiscal note indicates, HB 492 would significantly increase costs for both the State and local governments to invest and maintain in new hardware, software, and information technology infrastructure. Furthermore, because of cost and reliability, the long term archival storage medium for many local jurisdictions remain tape drives, which are not easily searchable or accessible.

Significantly increasing the use of tape drives could ironically increase the time and costs associated with email PIA requests.

HB 492 is a well-intentioned bill but its implementation would disrupt existing, workable policies and replace them with a more costly and ultimately less public-friendly system. Accordingly, MACo urges the Committee to give HB 492 an **UNFAVORABLE** report.