



House Bill 502

Public Information Act – Revisions

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Health and Government Operations Committee

Date: February 11, 2020

From: Alex Butler

The Maryland Association of Counties (MACo) **SUPPORTS HB 502 WITH AMENDMENTS**. While MACo and the counties are generally supportive of the state laws ensuring public access to documents and information, there are aspects of the bill that pose serious legal, implementation, and cost challenges that deserve careful consideration and revision. It is also worth noting that the survey that gave rise to the recommendations in this bill only interviewed State record custodians and did not include any local government agencies.

MACo's primary concern over the bill relates to the provisions giving the Public Information Act Compliance Board (Board) new authority to review record denials and compel disclosure. Currently, challenges to record denials are properly heard by the Circuit Court, where a judge can conduct an *in camera* (private) review of the records in question to determine whether their release was valid. This protects counties from liability concerns, particularly for mandatory denials.

However, neither the Board nor the Attorney General's Office carry the same legal weight and protections afforded by formal judicial review. **MACo urges the records denial portion of the bill be struck or, in the alternative, a formal Administrative Court process be established.** MACo's other amendments are largely technical but would provide needed clarity and corrections to the bill.

HB 502 would significantly expand the authority of the Board and care should be taken to provide clarity and avoid unintended consequences. MACo is willing to work with the Committee, bill sponsor, and other stakeholders to address our concerns. Accordingly, MACo requests the Committee give HB 502 a **FAVORABLE WITH AMENDMENTS** report.