



BILL NO.: House Bill 992

TITLE: Intergovernmental Cooperative Purchasing Agreement Requirements – Authority to Withhold Funds to Local Entities

POSITION: **OPPOSE**

DATE: February 29, 2012

COMMITTEE: Health and Government Operations

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The Maryland Association of Counties (MACo) **OPPOSES** House Bill 992. This bill would create new provisions seeking to mandate intergovernmental cooperative purchasing agreements between State and local entities. It would also authorize certain State agencies to withhold funds from local governments if the local governments do not participate in at least one intergovernmental cooperative purchasing arrangement.

MACo fully supports the promotion of cooperative purchasing agreements, but believes the elements of HB 992 are unnecessary and punitive in nature and its purpose is unfounded. The economy and fiscal constraints have created many opportunities for local governments to participate in purchasing consortiums and revise procurement processes to give more direction to departments in an effort to purchase more effectively and economically. While some of these cooperatives may have been in existence for a number of years, greater emphasis is being placed on their use and some counties have adopted policies for cooperative purchasing. These policies may direct a county to participate and solicit all bids through the State of Maryland's eMaryland Marketplace to take advantage of increased bidders for more competitive pricing or to incorporate an Optional Use Contract Clause in General Terms and Conditions of competitive sealed bids to allow other public bodies to "piggyback" on county awarded contracts.

In addition, most, if not all, counties belong to numerous purchasing consortiums to purchase items ranging from energy, fuel, furniture, copier paper to road salt. Some consortiums have specialized subcommittees to explore and develop best practices, discuss issues and problems of common interest, and to take advantage of economies of scale by participating in joint procurement for commodities. Examples of consortiums include: The Baltimore Regional Cooperative Purchasing Committee, the Eastern Shore of Maryland Educational Consortium Energy Trust, the National Joint Powers Alliance, Western States Contracting Alliance, Frederick Area Cooperative Purchasing Committee, and the Southern Maryland Cooperative Purchasing Committee.

The National Association of Counties (NACo) also serves as a resource for local governments. Just recently NACo held a County Sustainability Webinar Series to educate counties on how to save money with green purchasing and to review tools to get started. NACo worked with the U.S. Communities' Going Green Program to provide the webinar. Many counties also take advantage of U.S. Communities', a national government purchasing alliance.

Instead of penalizing jurisdictions for not entering into these arrangements, MACo would argue that incentives should be provided and obstacles removed. A recent survey found that most counties do piggyback on other government contracts which are competitively bid, but there are obstacles to this process. Differing procurement laws make it difficult to use contracts of other jurisdictions and locating contracts may be a problem. Although local governments would want to maintain flexibility to meet specific county needs, uniformity among procurement laws would be more supportive of cooperative purchasing opportunities. A central database or website where all current State and local government solicitations and contracts are listed could assist governmental entities in locating contracts to piggyback on. In addition, a clause in all State contracts that would allow local governments to take advantage of procured services would also be beneficial.

MACo would prefer these approaches to spur greater activity in this area instead of a measure that punishes local governments. Therefore, MACo urges an **UNFAVORABLE REPORT** on HB 992.