



Senate Bill 140

State Finance and Procurement – Retention of Percentage of Contract - Security

MACo Position: **OPPOSE**

Date: January 29, 2013

To: Education, Health, and Environmental Affairs

From: Andrea Mansfield

The Maryland Association of Counties (MACo) **OPPOSES** Senate Bill 140. This bill would reduce the retainage amount a local government would be able to withhold on a construction contract to 5% for the life of the contract. Under current law, a local government can withhold no more than 10% during the first half of a contract, dropping to no more than 5% for the second half of the contract.

SB 140 proposes to reduce local retainage requirements without justification. Local governments do not have the same practical bargaining power as the State, so this “one size fits all” approach to match state requirements is inappropriate. In addition, most local governments do not have the same overall presence in the marketplace to otherwise influence performance of private contractors, making the presence of sufficient retainage an essential protection for taxpayer investments.

With the weak economy and state cost shifts of recent years, many local governments have significantly reduced their capital budgets. For some, their capital budget could only consist of a few projects. This places an increased level of risk on the county which warrants an increased retainage amount to ensure projects move forward timely and in the best interest of the public.

MACo believes the current law provides adequate protection for local governments against contract defaults and delays. Accordingly, MACo recommends the Committee issue an **UNFAVORABLE** report on SB 140.