



Senate Bill 44

Records Management and Preservation – State and Local Government Units - Responsibilities

MACo Position: **OPPOSE**

To: Education, Health, and Environmental
Affairs Committee

Date: February 8, 2017

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **OPPOSES** SB 44. In attempting to incorporate electronic records into the State's current records retention, disposal, and archival requirements, the bill may place potentially significant implementation challenges on local governments.

SB 44 requires each unit of state and local government to offer for transfer to the Maryland State Archives (MSA) electronic records that the unit has determined are no longer needed for the transaction of business. Governmental units must also create and maintain an inventory of both electronic and non-electronic record files. Finally, the bill requires each unit of government to designate a "records officer" to serve as a contact point for the Maryland State Archives (MSA).

MACo appreciates the desire to update records retention, disposal, and archival policies to include electronic records. However, MACo is concerned that the bill will impose potentially significant implementation and technical issues regarding the capture, retention, organizing, and transmission of electronic data. Extracting electronic data from computer systems, proprietary databases, and mobile devices in a readable and accessible format will likely prove challenging.

The bill also seems to include metadata, which is not subject to disclosure under the Maryland Public Information Act, and handling this data could create additional legal and technical challenges. Finally, the bill would require a legal review of government software contracts to determine what information is a governmental record subject to MSA requirements.

It is clear that any modern records policy must include provisions for electronic records and MACo is willing to work with the MSA to see if our concerns can be addressed. However, unless an agreement can be reached, MACo requests the Committee give SB 44 an **UNFAVORABLE** report.