



MARYLAND
Association of
COUNTIES

Senate Bill 778

Procurement - Payment Security - Construction Contracts

MACo Position: **SUPPORT**
WITH AMENDMENTS

Date: February 27, 2018

To: Education, Health, and
Environmental Affairs Committee
From: Barbara Zektick

The Maryland Association of Counties (MACo) **SUPPORTS SB 778 WITH AMENDMENTS**. This bill requires all public bodies, including the State and county governments, to require contractors on construction contracts exceeding \$100,000 to provide payment security in the amount of 100 percent of the total amount of the construction contract.

Counties are concerned that increasing the amount of bond coverage required under all public construction contracts will increase contract costs for jurisdictions that do not already require this threshold of coverage under local law. Requiring this level of payment security may be prudent in many cases, and accordingly, many counties already require 100 percent payment security. However, each individual county should be able to retain discretion to determine their bonding requirements for their own contracts. Counties may opt to require over 50 percent but less than 100 percent payment security in cases where competition is limited, fewer subcontracts are anticipated, or protections for subcontractors are afforded by alternative methods other than by payment security, which requires costly and timely efforts by subcontractors for them to receive recovery.

MACo requests an amendment to ensure that counties retain local authority to set payment security requirements according to their individual contracting needs. For these reasons, MACo urges the Committee to give SB 778 a report of **FAVORABLE WITH THE REQUESTED AMENDMENT**.

Amendment:

In section (a), subsection (2)(ii), strike “.” and append:

(ii) for payment security, at least [50%] 100% of the total amount payable under the contract– FOR STATE-ISSUED CONSTRUCTION CONTRACTS; AND AT LEAST 50% OF THE TOTAL AMOUNT PAYABLE UNDER THE CONTRACT, FOR ALL OTHER CONSTRUCTION CONTRACTS AWARDED BY PUBLIC BODIES.