MARYLAND Association of COUNTIES

Senate Bill 1243

21st Century School Facilities Act

MACo Position: **SUPPORT WITH AMENDMENTS**

To: Budget & Taxation Committee

Date: March 15, 2018

From: Robin Clark Eilenberg

The Maryland Association of Counties (MACo) **SUPPORTS** SB 1243 **WITH AMENDMENTS**. This legislation would make various changes to the State school construction program to reduce regulation and administrative delays, provide options for alternative approaches, and create incentives for cost-effective practices in school construction.

The State should continue to strive for and maintain balance between state, county, and school board roles as it makes updates to the school construction program. The State should reestablish its role as a strong partner in school construction funding through additional State support and a refreshed reconciliation of costs eligible for State funding. While a $400 million annual goal for State school construction funding is a move in the right direction, county governments regularly provide more than $600 million annually to school construction. Over the next several years, counties advocate for the State to catch up with current costs, needs, and construction standards through another boost to its annual school construction funding commitment.

The State Should Expand, Not Contract, Costs Eligible for State Funding

Over many years, costs eligible for state funding for school construction have been reduced, while state and federal school construction requirements have increased. County governments support an in-depth review of eligible costs, and one that considers not only design costs, such as architectural and engineering fees, but also site-development costs resulting from new stormwater regulations, furnishing costs as modular options replace built-in fixtures, and technology costs associated with statewide testing and technology-driven learning requirements.

The legislation's suggestion that systemic renovations might be made ineligible for State funding should be removed. Systemic renovations are critical to supporting Maryland's aging stock of schools, and represent a wise investment in the extended life of all facilities. Large counties with aging schools and small counties with declining enrollment and limited operating funds all benefit from upgrades to more energy-efficient, cost-effective systems that may also improve the learning environments of students and the morale of teachers and staff.

School Funding Priorities Are a Local Decision – And Should Stay That Way

Local control of priorities for school construction funding must be maintained, and not lost to a statewide calculation of facility conditions and repair costs. School boards, together with county

governments, are best situated to know local needs and priorities and to respond to citizen interests and local conditions. Use of a statewide facility condition index for funding decisions threatens to penalize those school boards and counties who best protect investments through positive maintenance practices.

Alternative Financing Laws Need To Clearly Define Financial Responsibilities

Maryland counties seek to have every tool in the toolbox available to help confront rising costs of school construction and critical facility needs. For this reason, MACo has advocated for greater access to alternative financing arrangements, and supports the bill's alternative financing provisions. However, counties and school boards who pursue novel school financing arrangements, must be able to rely on state law that clearly defines financial responsibilities. This legislation should be amended to clarify that county governments must approve any alternative financing arrangement pursued by a school board, and that lease payments for private facilities are made outside of maintenance of effort calculations.

Forward Funding Practices Warrant Additional Examination

Counties support the legislation's establishment of a revolving loan fund to help ensure school construction projects are not delayed. At the same time, the State should consider correcting a common but illogical practice which currently results after forward funding. When counties provide advance funding for school construction projects, counties do not receive reimbursement back from the State when the State share is finally provided. State law should provide the strongest incentive to county funding authorities, by making clear that repayment proceeds return to county governments, not school boards.

Regulatory Relief Is Appreciated, and More Should Be Considered

Counties support the updates and modifications to several school construction regulations and processes. These include streamlining of construction reviews, exemptions for counties with robust local review processes, and adoption of a State-based standard for environmental building. In addition, deference to local emergency management and local school boards regarding emergency sheltering designations will ensure safety without unnecessary and costly redundancies.

Counties also support the legislation's requirement that the Interagency Committee on School Construction examine the effect of the prevailing wage on school construction. The legislation should also require an estimate of costs that could be saved by returning to a 50% state funding threshold for the application of prevailing wage to school construction. The legislation report should also examine the process for setting the prevailing wage, and possible alternative processes, including regional prevailing wage calculations.

SB 1243 will make many positive changes to State school construction law – many of which have been the subject of MACo's advocacy for the past few years. In such comprehensive legislation with multiple moving parts, certain areas of concern require revision. For these reasons, MACo urges a **FAVORABLE WITH AMENDMENTS** report on SB 1243.