



## House Bill 1

### *Built to Learn Act of 2020*

MACo Position: **SUPPORT**  
**WITH AMENDMENTS**

Date: February 19, 2020

To: Budget and Taxation Committee

From: Drew Jabin

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1's strong commitment to school construction funding **WITH AMENDMENTS** to provide some flexibility to county governments for their participation in this new program. MACo appreciates the State's responsibility to develop funding strategies to provide high quality schools and education in Maryland.

This legislation responds to many of the recommendations Maryland counties have made for the State program over the past several years: it provides a robust state funding commitment to school construction, technical support for smaller counties, and the potential for a more equitable split of school construction costs between the State and the counties. Although MACo supports the central concepts in HB 1, counties have strong technical concerns with certain language.

MACo supports the following ideas of HB 1:

#### **This Bill's Funding Infusion Will Accelerate the State's Recovery from a School Construction Backlog**

This legislation's provision of up to \$2.2 billion in additional school construction funding over the coming years aims to save backlogged projects from further delay. Many factors have driven dramatic school construction cost increases over the past decade. These factors, combined with an aging stock of schools and 10-point enrollment increases in several counties, have led to a backlog of school construction projects. Since 2009, the State has left—on average—more than \$300 million in school construction requests without funding each year. The Built to Learn Act's investment in school construction could be the providential intervention needed to provide safe and modern schools for students statewide.

#### **The Option of Project Management by the Maryland Stadium Authority May Provide Helpful Technical Assistance to Smaller Counties**

Under this legislation, county governments will have the option to use the Maryland Stadium Authority for management and oversight of public school facility projects. The need for more technical assistance for school boards was a central theme of the 21<sup>st</sup> Century School Facilities Commission Report. While school systems with their own

construction management staff may choose not to use the Authority, centralized technical assistance may benefit smaller school systems and manifest school construction efficiencies statewide. The bill should clearly allow the local jurisdiction to select its own path for best project management oversight.

### **Broadening “Eligible Costs” for Small Counties Provides Needed Support and Begins to Right-side the State-Local School Construction Partnership**

Architecture, engineering, planning, and other consulting fees associated with school construction are generally not eligible for state funding under current law. This legislation would make those costs, sometimes 10% or more of a project’s eventual total, eligible for state funding in counties with fewer than 20,000 students. The State’s partnership on school construction projects is especially meaningful. For a small county, the cost of building a school can easily equal its entire annual operating budget and threaten advancement of other needed capital infrastructure projects.

#### MACo raises concerns with these specific components in HB 1:

#### **Quick Ramp-Up of Funding Could Leave Some Counties Behind**

MACo has concerns that the quick ramp-up of funding—almost doubling the State’s commitment during its effect—could unintentionally disadvantage some counties who may be unable to readily gather the local funding match required to participate. Whether a function of legal debt limitations established through county charter or ordinance, or their own capital affordability calculations, the immediate funding pressure may result in uneven applications of funds. Some additional flexibility—a mirror-image of the longstanding county practice of “forward funding,” or a broadening of the flexibility reserved for smallest counties—could address this looming disparity.

#### **Statutorily Enshrining Not Yet Completed Facility Assessment Results Creates Uncertainty**

Based on recommendations of the Workgroup on the Assessment and Funding of School Facilities, there should be no decisions made using the yet to be completed School Facilities Assessment Study. The Workgroup will deliberate how to proceed with the information resulting from the Study when the Workgroup reconvenes. It is inappropriate to reference the Study in legislation and unwise to set a firm date for use of the Study for funding in annual school construction funding decisions (pg. 14, lines 16 - 21). This should be stricken from the bill and the issue more fully taken up by the Workgroup and policymakers once the Study has been completed.

Although MACo understands the intent of the Public School Facilities Priority Fund, again it refers to the not yet completed Study. This section of the bill (pg. 41, § 5-325) would fund an entirely new program based on information that is not yet available and makes assumptions on the severity of issues not yet reported in the Study. Again, it should be stricken from the bill and taken up once the Workgroup reconvenes with complete information.

### **State Criteria in Selecting Local Projects Creates Troublesome Precedent**

Of key concern to counties is the language in this bill (pg. 33, lines 22 -31) that would require the county and county boards of education to give priority in funding projects to schools that meet certain criteria. This is unprecedented in nature and moves in the direction of usurping local authority. MACo understands that the logic behind this troublesome language is to prioritize schools with strong needs, however, counties are directly accountable to their communities and understand the needs better at the local level. The State, through its decision-making role, already wields wide authority in approving and prioritizing projects for state funds—its role does not need to expand to subsume these community-level decisions.

For these reasons, MACo urges a report on HB 1 of **FAVORABLE WITH AMENDMENTS** to allow the State to broaden access to this exciting new program, allow the forthcoming facility assessment to proceed without pre-constructing laws around it, and protect the local autonomy of Maryland's local decision-makers.