Senate Bill 493

Budget Reconciliation and Financing Act of 2021

MACo Position: **SUPPORT WITH AMENDMENTS**

To: Budget and Taxation Committee

Date: March 3, 2021

From: Michael Sanderson and Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** SB 493 **WITH AMENDMENTS.**

This bill is the Budget Reconciliation and Financing Act (BRFA), reconciling various provisions incorporated into the Administration's fiscal 2022 fiscal plan, bringing the proposed budget into balance for the year. MACo appreciates the difficult task of constructing a balanced budget plan. However, counties are concerned with certain components of the BRFA and their future effect on local governments.

PROPERTY TAX ASSESSMENT COST SHARE

Proposes shifting millions in costs directly to counties for fiscal 2022 and thereafter.

MACo requests that the Committee reject this proposal on policy grounds

The BRFA proposes increasing counties' reimbursement of State Department of Assessments and Taxation (SDAT) functions, including costs of real property valuation, business personal property valuation, and information technology. Since 2013, counties have reimbursed the State for 50 percent of the costs for these functions, but the BRFA proposes to incrementally increase this share to 90 percent by fiscal 2025 and each year thereafter.

This proposed permanent cost shift not only imposes a significant fiscal burden on counties, but threatens the objective nature of having assessment functions managed and funded by an entity that does not meaningfully, directly, benefit from the results of those assessments.

Having assessments conducted by the State, rather than the counties, helps assure taxpayers that the assessing body provides objective, unbiased analysis. This becomes compromised when the assessing body receives significant funds from the jurisdictions directly benefiting from the results of those assessments. This cost shift, in effect, places the fox in the hen house by compromising the Department's unbiased nature.

169 Conduit Street, Annapolis, MD 21401
410.269.0043 BALT/ANNAP ◆ 301.261.1140 WASH DC ◆ 410.268.1775 FAX
www.mdcounties.org

Additionally, this cost shift requires counties to fund functions over which they have no managerial control. So long as the State does not bear the burden of costs resulting from managerial decisions, the Administration will have no incentive to contain those costs, or ensure management choices are generally fiscally prudent.

In 2014, the Maryland General Assembly created the Maryland Assessment Work Group (AWG) to examine issues related to the assessment processes for real and personal property, tax credits, and exemptions. The AWG made a number of recommendations, including:

- Tasking SDAT with examining and improving its business processes to maximize efficiency related to its assessments and administration; and
- Suggesting the creation of an Advisory Council to address the fact that local governments are major business partners with SDAT, to include local government representatives and ensure progress on business process improvements within the Department.

The 2015 Joint Chairmen's Report provided:

> *It is the intent of the committees to assure progress on the implementation of the 2014 Assessment Workgroup (AWG) recommendations by directing the State Department of Assessments and Taxation (SDAT) to establish a State and Local Advisory Council. … The advisory council shall meet periodically to discuss issues of mutual interest, including but not limited to the assessment of real and personal property and tax credit programs and exemptions; guidance on the implementation of the AWG recommendations from the December 15, 2014 report; and, business process changes and the leveraging of new technologies to achieve greater operational efficiencies.*

No such legislation has been introduced. Without any oversight or participation on an advisory council such as that proposed, counties should not have to bear the brunt of funding the majority of the operations of many of SDAT's core functions.

PERMANENT COMMUNITY COLLEGE FUNDING REDUCTION/RE-BASING

Proposes dramatic, long-term reductions by altering the future Cade Funding Formula increases to the level of projected general fund revenue growth.

<u>MACo urges the Committee to reject this section of the BRFA</u>

The Cade Funding Formula originally called for the State to provide 29% of community college funding by 2012. However, the State has adjusted the formula several times – delaying its commitment to fully fund the Cade formula. Under current law, funding is based on an amount equal to 25% of the State Aid per FTES (full-time student enrollment) at the selected four-year schools. This increases to 27% in fiscal 2022 and 29% in fiscal 2023 and thereafter.

The BRFA proposes amending the Cade Funding Formula to limit the growth of community college funding. Beginning in fiscal 2023, funding for community colleges would grow not according to the documented needs under the Cade formula, but rather along with the growth in State general revenues. As a consequence of this alteration, the funding formula would no longer be annually linked to the FTES population, fixed cost, marginal cost, size factor, or hold harmless provision at the respective community colleges.

DLS estimates that this proposal would cut overall funding for community colleges by approximately $147.5 million by fiscal 2026.

When state funding for community colleges lags, additional pressure builds on county budgets and on student tuition. When county budgets face distress from the economic climate or state actions, the local contributions cannot reliably offset these cutbacks. For the past several years, this combined dynamic has led to increased tuition costs for Maryland community college students, at a time when training and education opportunities are most needed.

CENTRAL FUNDING FOR LOCAL MANAGEMENT BOARDS

The proposed budget (rather than the BRFA bill) proposes that centralized State funding for Local Management Boards be reduced and flat-funded for FY 2022 at the level following mid-year cuts in July 2020.

<u>*MACo urges the Committee to reject this budget action, and pursue means to restore this funding*</u>

With a similar approach to the proposed re-based funding for community colleges, the Governor's budget plan seeks to flat-fund centralized funds for Local Management Boards at their fiscal 2021 level – carrying forward a reduction effected by the Board of Public Works on July 1, 2020, as the State faced grave uncertainty regarding its own financial prospects. Since then, both the short- and medium-term fiscal outlooks have changed – enough so for the State to propose and adopt a variety of relief efforts and revenue reductions. However, these funds for children's services remain level-funded.

Local Management Boards are State-mandated entities operated to serve children in each county. They coordinate across agencies, and have promoted better outcomes and more comprehensive services to families and children in need. Centralized funding for administration of the LMBs has been provided through the Governor's Office of Crime Prevention, Youth, and Victims' Services – an agency that reportedly concluded the FY 2020 year with a substantial unspent balance.

These local services are worth supporting properly under any circumstances, but during the current pandemic, the incidence of many child welfare concerns has only heightened.

Through whatever means is most appropriate, restoration of these funds for FY22 would stave off service cutbacks during a time when children in need could least afford them.

ERRONEOUS CONVICTIONS

Proposes that local governments pay 50 percent of the compensation awarded to an individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit.

<u>MACo urges the Committee to reject this section of the BRFA</u>

The BRFA proposes that for all settlements entered into beginning in fiscal 2021, a local government must be responsible for 50% of any payments owed by the Board of Public Works (BPW) to an erroneously convicted individual.

Under current law, the Board of Public Works may grant compensation to an individual who was erroneously convicted, sentenced, and confined under state law for a crime the individual did not commit. BPW is authorized to grant an amount commensurate with the actual damages sustained by the individual, and for any financial or other appropriate counseling.

The Constitution of the State of Maryland provides that each county and the City of Baltimore shall have a State's Attorney whose primary responsibility is the investigation and prosecution of all criminal defendants. State's Attorneys are independently elected state officials and do not come under the authority or supervision of county governing bodies. The decision to prosecute a criminal case or not lies within the sound discretion of the State's Attorney.

According to DLS, recent changes to state law may considerably increase the number of grants awarded by BPW. For instance, in fiscal 2020, BPW approved ten grants totaling $22 million. **Because county governments have no authority or oversight concerning the prosecution of criminal cases, these grants are properly supported by the State's General Fund.**

Further, this shift would lead to unknown and potentially significant cost increases to counties – competing for limited local funds against education, public health, public safety, roadway maintenance, and other essential public services. Because the ultimate disposition of a petition for compensation is wholly outside of the county government's control, counties could not even budget for these costs.

"HOLD HARMLESS" SCHOOL FUNDING, AND FISCAL 2023 EFFECTS

Obliges that each county must fund an increase in total school funding next year, despite a potential drop in enrollment. The effects of this proposal in fiscal 2023, however, would be an artificial increase in school funding requirements once school populations rebound following the welcome abatement of pandemic conditions.

<u>MACo believes counties will be able to comply with the fiscal 2022 funding requirement, but urges a remedy for the follow-through effect on fiscal 2023 funding, such as DLS has recommended.</u>

Among the many effects of the health pandemic has been a drop in official public school enrollment – the September 2020 count was down, demonstrating a clear aberration. Reconciling this (hopefully) one-year anomaly requires a series of considerations – two of which are present in the budget and BRFA, one of which is not.

The Governor's budget proposes a series of State grants to ensure that each jurisdiction receives a funding increase over its fiscal 2021 funding levels. Effectively, this is a signal to ignore the peculiar drop in enrollment count from September 2020, used as the basis for fiscal 2022 funding. This approach seems reasonable.

The BRFA (Section 10) proposes, then, that each county government must do likewise, and provide a funding increase above the prior year's total amount, in order to be eligible to receive the State's "hold harmless" funding. On its surface, this too proposes that the official enrollment be ignored, and appears to be a reasonable condition on the state funding.

The resulting concern, though, is the Maintenance of Effort requirement that would be in place for fiscal 2023, presumably as student counts rebound. With an artificially high "dollars per pupil" in fiscal 2022 due to the local hold harmless and low enrollment, that ratio would then be applied to a fully restored student count, and generate an artificial increase in required funds. The third component of the plan to "ignore the undercount" would be to remedy this effect for fiscal 2023.

The DLS budget analysis for Aid to Education proposes such a technical remedy, with a more complete explanation and evaluation than posed here. Whether in the BRFA or in stand-alone legislation, the General Assembly must complete the logic of this one-year funding approach, and curtail the effects on the fiscal 2023 mandated funding. The policy argument for this mirrors, directly, that underpinning the budget and BRFA plan already embedded in the budget plan.

CONCLUSION

MACo and county leaders are prepared to work with state policymakers on all of these issues, and other considerations, as part of a responsible balanced budget plan. MACo hopes that state leaders recognize that burdens on county budgets are substantial, and these challenges would only be worsened by added cost shifts or disproportionate budget cutbacks on county programs.