



House Bill 38

School Construction and Housing - School Zones and Adequate Public Facilities Ordinances

MACo Position: **OPPOSE**

To: Appropriations Committee

Date: February 4, 2025

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** HB 38. As drafted, this bill would broadly limit the enforceability of all Adequate Public Facility Ordinances (APFOs) to four years. MACo acknowledges anticipated Sponsor Amendments to clarify the intent being, “if a county APFO effects housing moratorium on the basis of school capacity, the moratorium on construction cannot last longer than four years.”

As currently drafted, this legislation does not fully capture the nuances of county APFO policy or the county’s role (or lack thereof) in influencing school redistricting and capacity. For context, APFOs help counties manage rapid development where infrastructure—typically schools, but also water, sewer, or roads—cannot keep pace with growth. Counties may control some infrastructure, but classroom size and redistricting are solely decided by school boards and their administration. Outside of providing the state-mandated funding for school districts, Maryland’s county governments have no role in or influence over decisions made by the school districts. As a result, under HB 38, the county would suffer an override of its own growth policies (designed to avoid overcrowding) based on the decisions of the independent school system’s inability to realign school populations.

Because of the lack of authority or influence, counties are concerned that the bill (both as drafted and as potentially amended) would effectively punish jurisdictions for decisions over which they have no influence. If the intent of the sponsor is to ensure school districts regularly evaluate classroom size and capacity in order to influence requirements around redistricting, a better approach would be for the State to establish some incentive or require that the local school systems do so.

As frontline responders to the affordable housing crisis, counties remain ready to collaborate on solutions that serve the people of Maryland. However, this bill, both as drafted and potentially amended, misaligns key authorities and policy objectives. For this reason, MACo urges the Committee to give HB 38 an **UNFAVORABLE** report.