MARYLAND Association of COUNTIES

Senate Bill 546

Municipal Incorporation - County Commissioners or County Council - Required Approval of Referendum Request

MACo Position: **OPPOSE**

To: Education, Energy, and the Environment Committee

Date: February 25, 2025

From: Michael Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** SB 546. This bill would upend the longstanding, carefully crafted framework that governs municipal incorporation by stripping county governments of proper and necessary input and oversight.

Under current and longstanding Maryland law, in order to incorporate, residents of an area must first petition the county governing body with their interest. The county then evaluates the potential effects of the possible incorporation on the surrounding area and the county at large, and determines through its own public process whether to submit the matter to a referendum, which by law is confined to the affected area's residents. SB 546 effectively skips that middle step, and denies any input from areas affected by, but not geographically within, the proposed incorporation.

The effects of such a change are far-reaching, and potentially worrisome. This bill could jeopardize local zoning policies by creating an appealing avenue for development inconsistent with the overall county land use plans. During a vigorous development climate, builders frustrated by limitations of county-imposed laws such as Adequate Public Facilities Ordinances may see a new incorporation path as an avenue to skirt those limitations, and SB 546 could advance that. The result could be overcrowding in school facilities and unmanageable burdens on public safety, infrastructure, and other county services.

From the fiscal perspective, wide-open incorporation could pose comparable concerns. Under Maryland law, county income tax receipts from municipal residents are shared with the city or town. Residents in select enclaves in virtually any county could incorporate merely to receive this allocation of county resources – regardless of their desire for any municipal services. This curiosity already exists in certain current Maryland municipalities, but could become rampant if legislation like SB 546 were to pass.

Along similar lines, state law governing Highway User Revenues would be another artificial inducement to incorporate. This is because state law currently rewards municipal road miles more generously than county road miles (and even more so with the current phase-in of substantially higher municipal road funding passed during the 2022 session), under a heavily distorted allocation, patchworked since the "great recession" cuts over a decade ago. While this financial incentive is not dramatic, it illustrates yet another distortion arising from a wide-open incorporation law.

The 2025 introduced bill adds a new element to its process, but does so by awkwardly placing the burden of fiscal analysis onto the "organizing committee" who may lack the technical wherewithal and the proper data access to effectively forecast these statutory funding shifts. Their ability to project the

potential new level of services and additional taxes from residents and property owners in the area may be valuable to the county governing body and the nearby residents, but tells only a part of the story.

In Maryland, county and municipal government have a different range of responsibilities. Allowing residents to, at their leisure, designate themselves for municipal treatment when it suits their whim, and without concern for the effects on the abutting areas or the county at large, merely allows the distortions in these laws to become a major policy weakness.

SB 546 reverses a set of laws designed to ensure broad, public consideration of proposed municipal incorporations, and sets aside the meaningful impacts upon the residents of the area surrounding the would-be town. Accordingly, MACo requests an **UNFAVORABLE** report on SB 546.