

February 11, 2021

HB0704

**TESTIMONY OF WAYNE L. ROGERS
BALTIMORE WASHINGTON RAPID
RAIL IN OPPOSITION TO HB704**

Land Use – Magnetic Levitation Transportation System Siting (Maryland Stop the Maglev Act of 2021)

Dear Chairman Barve, Vice Chair Stein and members of the committee,

I am appearing today to convey our strong opposition to HB0704, entitled the “Maryland Stop the Maglev Act of 2021.”

The Baltimore-Washington Superconducting Maglev project would bring ultra-fast SCMAGLEV technology to the United States, connecting Baltimore to Washington in 15 minutes, with the ultimate goal of providing one-hour service from Washington, D.C., to New York.

Construction of the first leg of the project from Washington to Baltimore would **create 74,000 jobs in our state (205,000 nationally) and result in a \$6.5 billion GDP increase in Maryland from construction (\$268 million annually from operations)**. Once complete, the first leg of the Northeast Maglev would bring over 1,500 permanent jobs to our area – including hundreds of permanent jobs to Prince George’s County, and thousands more for local supporting industries and businesses.

SCMAGLEV will open the door to enormous growth and opportunity in the area, and it will reduce traffic by taking cars off the road. Our drivers spend **102 extra hours each year** in traffic delays. The Project will move as many as **16 million trips** between Washington and Baltimore per year from cars on overcrowded highways to public transit. It will reduce greenhouse gas by over 2 million tons to help combat climate change.

This bill is a direct attempt to kill the SCMAGLEV project. It is not even thinly veiled as it proclaims in its name “Maryland Stop the Maglev Act of 2021.” It is both bad public policy and law to enact bills directed at stopping a single project. It is particularly egregious to do so at the behest of a small number of people, denying the majority of our citizens the benefits of the Project.

On its face, HB0704 is of questionable legality. Magnetic levitation and other railroad projects are regulated by the Federal Surface Transportation Board. As affirmed in their decision in Docket No. FD 36017, the STB stated:

Courts and the Board have found that state or local actions that "have the effect of managing or governing,' and not merely incidentally affecting, rail transportation are expressly or categorically preempted" under § 10501(b). Tex. Cent. Bus. Lines Corp. v. City of Midlothian, 669 F.3d 525, 532 (5th Cir. 2012) (quoting Franks Inv. Co. v. Union Pac. R.R., 593 F.3d 404, 410 (5th



Cir. 2010) (en banc). Two broad categories of state and local actions are subject to this per se form of preemption: (1) state or local permitting or preclearance requirements that by their nature could be used to deny or unreasonably delay a railroad the ability to conduct rail operations; and (2) state or local regulation of matters that are directly regulated by the Board, such as the construction, operation, and abandonment of rail lines (see 49 U.S.C. §§ 10901-07); railroad mergers, line acquisitions, and other forms of consolidation (see 49 U.S.C. §§ 11321-28); and railroad rates and service (see 49 U.S.C. §§ 10501(b), 10701-47, 11101-24). As a result, state or local permitting or preclearance requirements, including building permits, zoning ordinances, and environmental and land use permitting requirements are categorically preempted as to any facilities that are an integral part of rail transportation.⁷ See City of Auburn, 154 F.3d at 1027-31; Green Mountain, 404 F.3d at 643; Soo Line R.R. Co.-Petition for Declaratory Order, FD 35850 (STB served Dec. 23, 2014) (federal law preempts state and local permitting requirements and other state and local laws that would prohibit or unreasonably burden or interfere with railroad's track extension project).

The “Stop the Maglev Act” is an affront to the large majority of Marylanders who seek opportunity and a future driven by superior infrastructure, not traffic congestion, air pollution and ravaging climate change. The Project has been endorsed by the NAACP, the National Association of Building Trades, the Greater Baltimore Urban League, the Eastern Atlantic States Carpenters, the Baltimore-DC Metro Building Trades Council, the National Capitol Baptist Convention and the Chambers of Commerce of Prince George’s, Northern Anne Arundel, Baltimore Counties and Baltimore City.

We strongly oppose HB0704 and recommend an unfavorable report.

Sincerely,

Wayne L Rogers
Chairman & CEO