

January 27, 2022

**HB 120**

The Honorable Kumar P. Barve  
Chair, House Environment and Transportation Committee  
Maryland General Assembly  
251 House Office Building  
Annapolis, MD 21401

RE: **TESTIMONY IN OPPOSITION TO HB 120 – RAILROAD COMPANIES –  
CONDEMNATION AUTHORITY – APPLICATION**

Dear Chairman Barve,

Thank you for the opportunity to appear today and provide testimony in opposition to HB 120. This bill seeks to remove the power of eminent domain from a single franchised railroad, Baltimore Washington Rapid Rail. This is the same bill brought before the Committee several times in the last few years and not approved.

Since the founding of the country, it has been well settled that individuals are sometimes required to dedicate some of their land for common use. Eminent domain statutes have long been recognized to provide an orderly process which protects landowners in receiving fair value for their property. Eminent domain is used sparingly as a last resort and only for a public purpose. It is limited in Maryland law and elsewhere to franchised utilities (electric, gas, telephone, water and yes, railroads) as well as the government itself.

Eminent domain has been used by the federal government, the state government, municipalities, private persons and corporations, when they are authorized, to exercise the essential functions of a public character for the betterment of our state and country. Without eminent domain you would not have a major airport, railroad, or highway nor, for example, would there be Washington D.C., The Brooklyn Bridge, The Johnson Space Center, New Orleans, The Golden Gate Bridge, Rock Creek National Park, Shenandoah National Park, Mammoth Cave National Park, or the Great Smoky Mountains National Park, to name a few.

Eminent domain is necessary for a well-functioning democracy, as one person should not be able to unilaterally halt a project that has a public purpose serving the greater society.

HB 120 is designed to destroy that settled law and circumvent the administrative processes put in place governing utilities, where franchise authority (and hence eminent domain authority) is granted by the Public Service Commission after review, public notice, and hearing. BWRR undertook this public process resulting in the granting of a railroad franchise by the Maryland Public Service Commission in October, 2015. In granting the railroad franchise, the Maryland PSC found that "...no doubt that the construction and operation of the SCMAGLEV between Baltimore and Washington, DC will result in substantial economic and social benefits to the State and Baltimore and be consistent with the State's environmental laws and policies enacted or adopted to reduce harmful emissions for cleaner air and address the causes of climate change." Further, the PSC found that awarding the franchise was in the public convenience and necessity.



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HB 120 is asking the legislature, without justification, to step in preemptively, and simply change the law against a single project and franchisee, wiping out the entire administrative process, completed with full public notice and input.

BWRR is committed to working with landowners and communities in order to minimize impacts of the proposed SCMAGLEV project. Indeed, a route has been developed that would result in no takings of residential homes along the alignment.

Removal, however, of the eminent domain authority provided in Maryland law and regulated by the Maryland Public Service Commission, would be tantamount to stopping the SCMAGLEV project or any future use of magnetic levitation transportation technology in the future. There is no evidence of harm that would warrant such an egregious act.

It is extremely important that we let the normal regulatory and legal processes in place work and do not set a precedent of upsetting current laws, not to address a problem, but to single out a single project for unfavorable treatment.

We strongly recommend that **HB 120** be provided a negative report.

Sincerely,

Wayne L. Rogers  
Chairman/CEO