

SB0380-Food_and_Water_Watch-Support-2023-02-22.pdf

Uploaded by: Mary Grant

Position: FAV



1616 P Street, NW
Suite 300
Washington, DC 20036
T +202.683.2500
F +202.683.2501
foodandwaterwatch.org

SB0380 – Income Tax - Subtraction Modification - Water Affordability Assistance
February 22, 2023
Budget and Taxation

FAVORABLE

On behalf of Food & Water Watch and our 44,000 supporters in Maryland, **I strongly urge a favorable report on SB0380.** This legislation will allow water affordability assistance to be subtracted from gross income for state income taxes purposes. Water bill assistance to low-income households is clearly in the nature of relief to promote the general welfare and should not be includible in gross income for tax purposes.

SB0380 will enable equitable access to water affordability assistance to tenants in multifamily homes.

Tenants in multifamily units rarely have access to low-income water assistance because they share a centralized water meter and are not individual direct customers of a water utility. Baltimore City has designed an equitable solution for this problem through its Water4All program, the comprehensive income-based water affordability program launched last year. Baltimore City provides affordability assistance directly to tenants in multifamily units on prepaid cards to offset their water costs paid to landlords. Unfortunately, the city has warned that the assistance could count as income and is requiring W9s from tenants to access the low-income water affordability program.

SB0380 will help ensure that water affordability assistance doesn't cause harm to low-income tenants. Counting water affordability assistance as income can have cascading impacts on a low-income household, potentially jeopardizing their access to other income-qualified assistance programs and potentially disqualifying them from subsidized housing, SNAP, social security, or disability benefits.

SB0380 will allow Baltimore City to expand water affordability assistance to hundreds, if not thousands, of tenant households. According to DPW's monthly review, as of mid-February, more than 600 tenants have not accepted the affordability assistance. The Department has indicated in conversations that filing the W-9 is the main obstacle. The average income of households who are applying is less than \$17,000 a year. There is a clear need to expand access to this program.



The Maryland Advisory Committee to the U.S. Commission on Civil Rights similarly has recommended this action: "The state of Maryland should declare water assistance nontaxable income."

I strongly urge you to give a favorable report on SB0380 to remove water affordability assistance from state income taxes and help ensure equitable access to water for all Marylanders.

Thank you for your time and consideration,

Mary Grant

Public Water for All Campaign Director

Food & Water Watch

Eckel - SB0308 - MVLS - FAV.pdf

Uploaded by: Rianna Eckel

Position: FAV



JUSTICE FOR ALL

Susan Francis
EXECUTIVE DIRECTOR

MARYLAND SENATE BUDGET AND TAXATION COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB0380: INCOME TAX-SUBTRACTION MODIFICATION

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WATER AFFORDABILITY ASSISTANCE
WEDNESDAY, FEBRUARY 22, 2023

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VICE PRESIDENT

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James Tansey
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My name is Rianna Eckel and I am a Baltimore Water Outreach Coordinator with Maryland Volunteer Lawyers Service (MVLS), and the convener of the Baltimore Right to Water Coalition. I have been working on water justice in Baltimore in various capacities for nearly seven years.

Tyree Ayers
Shereefat O. Balogun
Matthew M. Bryant
Jhonell Campbell
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Susan DuMont
Brian Gordon

MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY22, MVLS volunteers and staff lawyers provided legal services to 3,458 people across the state.

La'Tika Howard
Dr. Ann Irvine
Robin Leone
Reba Letsa
Michelle McGeogh
Saad Malik

MVLS first became involved with helping clients with their water bill issues through our work in tax sale and housing. As part of our housing work, we see tenants facing eviction over unaffordable water bills. HB0538 will ensure that tenants are able access water affordability assistance without unintended consequences.

Michael March
Anthony May
Chelsea Ortega
Derek P. Roussillon
Marc E. Shach
Dennis J. Shaffer
Sheila J. Stewart
D'Sean Williams-Brown

When the Baltimore Right to Water Coalition was writing the Water Accountability & Equity Act, passed by the Baltimore City Council in 2019, it was important to us that tenants be able to access the Water4All affordability program. Until the launch of the program, tenants, who make up 53% of Baltimore City, were not able to access any water billing assistance or information about their account, even if they were responsible for paying the bill and could be evicted for nonpayment. For homeowners, the Water4All credit will be applied directly to their water bills. The tenant advocates in the coalition wanted to ensure that tenants would be the ones seeing the benefit from Water4All, and that landlords would not be able to pocket the credits without passing on the savings, so it was written that tenants would get direct payments



Susan Francis
EXECUTIVE DIRECTOR

from the city for their Water4All credits. These direct payments are being issued on loaded debit cards via a vendor, Edquity.

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In trying to ensure that tenants receive the most benefit from Water4All, an unanticipated externality came up, as the payments will be counted as taxable income. To get the credit, tenants will have to fill out a W9 form, and will be issued a 1099 for their “independent contracting work” with the city - just to make their water bills affordable.

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It’s fundamentally wrong that someone would have to pay taxes on money provided to make their water bill affordable. Having this assistance count as income will inevitably make filing taxes much more complicated, and could even push people over the income thresholds for other assistance programs. Ensuring that water affordability credits do not count as taxable income is an economic justice and racial justice issue. Generally, tenants are more likely to be lower wealth and more financially destabilized than homeowners. Additionally, Black and Brown Baltimoreans are more likely to be renters. Many more Black and Brown city residents are shut out of homeownership. When compared with white residents, Black residents are 33% more likely to be renter than a homeowner, and Brown residents are 50% more likely to be a renter than white Baltimoreans.

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Nearly a year after the launch of the Water4All program, we are seeing the impacts of this in the enrollment numbers. 53% of Baltimore’s residents are tenants, yet they are staggeringly underrepresented in the new Water4All program. As of February 1st, the Baltimore City Department of Public Works has received 3,630 applicants for the Water4All program from homeowners, but only 2,090 from tenants. While there are likely many reasons for this under enrollment it is likely that the explanation of why tenants should submit a W9 on the FAQs page plays a substantial role in this.

D’Sean Williams-Brown

In addition to low enrollment, we have heard from our partners at the Baltimore City Department of Public Works that many tenants who have gone through the application process and been approved have actually decided to decline enrollment in the program once asked for a W9 because they do not want to deal with the many ramifications of having this needed affordability assistance count as taxable income.



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This means that tenants who need help with affording their water bills are not able to get it. Additionally, the Water4All program was designed to keep water bills permanently affordable for low-wealth families, having the affordability credit taxed as income defeats the very purpose of the program.

While this is currently only a concern for Baltimore's Water4All program, it is inevitable that this will become important in other jurisdictions as our national water affordability crisis deepens. Federal funding for our water systems has been gutted, and while the current administration is making investments, it is not nearly enough. At the same time, our water infrastructure is crumbling. These colliding crises will make water more expensive, as major repairs are needed and ratepayer payments are the primary means of paying for them. The need for meaningful water affordability solutions will only grow, and the state must take action to ensure renters receive the true benefits these programs entails.

MVLS has been fighting to even the playing field for low-income Marylanders for decades, and we know that low-wealth tenants Marylanders are most often left behind without an advocate. This imbalance of power makes it more likely that our clients will continue to struggle financially, or face eviction over water bills. For all of the reasons stated, we support HB0538 which will clarify that water affordability assistance is not taxable income and consequently, we urge a favorable report.

Chair and members of the Committee, thank you again for the opportunity to testify.

Written Testimony Regarding Senate Bill 380.pdf

Uploaded by: William Steinwedel

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

Senate Bill 0380

Income Tax – Subtraction Modification – Water Affordability Assistance

In the Senate Budget and Taxation Committee

Hearing on February 22, 2023

Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on SB 0380 at the request of bill sponsor Senator Mary Washington.

MLA asks that the Committee report **favorably** on Senate Bill 380, which would end the taxation of water bill assistance granted by state or local government, ending the perverse practice of penalizing low-income residents for receiving assistance because they are low-income. MLA is Maryland’s largest private, civil non-profit law firm, providing free legal services to indigent Maryland residents. MLA assists individuals and families in every Maryland county with a wide array of civil legal issues, including protecting people from the epidemic of the loss of housing across the state. MLA is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents.

SB0380 would eliminate from taxable income any water bill assistance received from a local government or the State of Maryland.

Any welfare benefits that are received from a “public welfare fund” based upon need are not considered income for IRS purposes.¹ IRS guidelines are clear: Water bill assistance provided to homeowners is income-based and comes from a public welfare fund. It is therefore not taxable under IRS guidelines.

SB 0380 is necessary, however, to clarify that water bill assistance is non-taxable income even where its funding source is not a “public welfare fund.” The need for clarity arises presently in the City of Baltimore’s “Water for All” income-based billing program. However, as detailed below, the importance of SB 0380 extends throughout the state.

Under the “Water for All” program, homeowners and tenants typically receive a credit based on their income levels. This credit is accounted for directly in the customer’s billing. Whereas this direct form of the credit works elegantly for properties that are single-metered, it cannot be implemented for a tenant in a master-metered multi-unit building. This type of water-payer is responsible for a share of water and

¹ IRS Publication 525: Taxable and Non-Taxable Income, <https://www.irs.gov/pub/irs-pdf/p525.pdf>.

sewer charges for their entire building and pays their share to the landlord, rather than directly to the utility. (The landlord is the City’s customer.) If this water-payer tenant is income eligible for a “Water for All” credit, they may receive the credit in the form of a reimbursement payment. To account for this transaction of water bill assistance, the City issues a 1099-MISC form.

Under advice from outside counsel, the City of Baltimore takes the view that this direct-to-tenant payment of water bill assistance is taxable income, regardless of IRS guidelines. Although the City has not shared their legal analysis with stakeholders in the implementation of the “Water for All” program, one might assume that, under the City’s view of these credits, the dollars paid out to the tenant derive from general water utility revenue – *not* from a separate “public welfare fund” for water bill assistance. It is possible, too, that the City is unsure how the IRS would treat these direct-to-tenant payments under the aforementioned guidelines. The City may issue the 1099s in an abundance of caution.

HB0538 is necessary to eliminate this ambiguity and ensure that a local government may make direct-to-tenant payments for water bill assistance without issuing a 1099-MISC form. This bill would clarify that water bill assistance is not taxable income and would therefore prevent the City from issuing these 1099s.

Without passage of SB0380, the tax treatment of water bill assistance payments will harm low-income residents.

Low-income Marylanders generally do not have the funds to afford to hire an accountant to go over their tax documents with them, so they are more likely to report a 1099 for water bill assistance in their gross income. This can have several adverse consequences. As noted in the 2022 report *Water Affordability in Maryland*, tenants “lose as much as a quarter of the benefit [of the Water for All credit] to taxes. The assistance would also be factored into their total annual income and could potentially disqualify them for other means-tested financial benefits they receive, such as subsidized housing, SNAP, Social Security, or disability benefits.”²

There is a \$10,300.00 limitation on non-work income for a person to be eligible for the Earned Income Tax Credit (EITC). It is possible that a tenant may incorrectly report their water bill assistance as income to the IRS, which will cause the earned income tax credit to be eliminated or limited incorrectly. In addition, every three years, millions of dollars of tax refunds go unclaimed by taxpayers, especially low-

² Maryland Advisory Committee to the U.S. Commission on Civil Rights, *Water Affordability in Maryland* 10 (July 2022), <https://www.usccr.gov/files/2022-07/md-sac-water-affordability.pdf>

income taxpayers.³ If tenants receive a 1099 for water bill assistance, this may make it less likely that they file a return, fearing incorrectly that they will owe money to the IRS. If they fail to file a tax return, they then will not receive the tax refund that they are entitled to.

Amid rising water unaffordability, localities need the clarity of SB0380 to innovate systemic solutions.

Water bill assistance is critical to achieving affordability for Maryland’s low-income homeowners and renters. The U.S. Environmental Protection Agency defines water unaffordability at more than 2 percent of household income.⁴ The Maryland Advisory Committee to the U.S. Committee on Civil Rights found that “[u]nder this definition, water is unaffordable across the state of Maryland. In fact, for households at 50 percent of the federal poverty rate, water is only affordable in three of the state’s 38 PUMAs (Public Use Microdata Areas).”⁵

Water and sewer service rates have increased sharply in recent years. The increasing cost is not isolated to Baltimore City, where repair of aging systems drove up rates by 30% between 2019 and 2021 and will continue to push rates by 3% annually from 2022 through 2025.⁶ Facing similar infrastructure and budget needs, WSSC implemented back-to-back rate hikes of over 6% over the past two years in Montgomery County and Prince George’s County.⁷ Last year, the private company Maryland Water Service, Inc.’s 3,500 customers faced rate hikes of 30% in Bel Air and Joppa, 68% in Cumberland, and 255% in Severn.⁸

While federal dollars have recently become available for water bill assistance, first through the CARES Act and presently in the form of the Low Income Household Water Assistance Program, localities must anticipate that federal funding will taper off or fail to cover the full extent of need. It will be necessary for localities to innovate long-term affordability mechanisms.

³ IRS Press Release, March 25, 2022, <https://www.irs.gov/newsroom/irs-has-1-point-5-billion-in-refunds-for-people-who-have-not-filed-a-2018-federal-income-tax-return-april-deadline-approaches>.

⁴ *Id.* at 7.

⁵ *Id.*

⁶ Colin Campbell, “Baltimore water rates will increase 30 percent in next three years,” *The Baltimore Sun*, Jan. 9, 2019, <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-water-rate-hike-20190109-story.html>; Baltimore City Public Works, FY 2023-2025 Water/Sewer/Stormwater Rates, <https://publicworks.baltimorecity.gov/proposed-rates>.

⁷ Steve Bohnel, “County Council recommends up to 7% increase in WSSC water rates for upcoming year,” *MoCo360*, Nov. 1, 2022, <https://moco360.media/2022/11/01/county-council-recommends-up-to-7-increase-in-wssc-water-rates-for-upcoming-year>.

⁸ Elizabeth Janney, “Proposed Water Rate Hike In Bel Air Prompts Hearing,” *Patch.com*, Feb. 7, 2022, <https://patch.com/maryland/belair/proposed-water-rate-hike-bel-air-prompts-hearing>.

Baltimore City is a shining example of such innovation. In 2019, Baltimore City Council passed robust measures to limit water and sewer costs to 3 percent of household income. The Water Accountability and Equity Act (WAEA) enacted income-based water and sewer billing for both homeowners and renter households earning less than 200% of the federal poverty level. Instead of cutting some residents out of the program, WAEA extends this affordability measure even to tenants in multi-unit, master-metered buildings. As described above, implementation of “Water for All” raises challenging questions. SB0380 will help the City of Baltimore answer those questions and continue building out a bold program. Equally, for the benefit of constituents outside Baltimore, HB0538 achieve would bring clarity needed by any local governments that are or may become interested in income-based billing.

Because this bill clarifies that water bill assistance is categorically not taxable, **Maryland Legal Aid urges the Committee to issue a FAVORABLE report on SB0380.** If you have any questions, please contact William Steinwedel, (410) 951-7643, wsteinwedel@mdlaborg.org, or Zafar Shah, (410) 951-7672, zshah@mdlaborg.org.

SB0380-BT_MACo_OPP.pdf

Uploaded by: Kevin Kinnally

Position: UNF



Senate Bill 380

Income Tax - Subtraction Modification - Water Affordability Assistance

MACo Position: **OPPOSE**

To: Budget and Taxation Committee

Date: February 22, 2023

From: Kevin Kinnally

Tax Incentives and Local Government Autonomy

Counties are eager and committed partners in promoting economic growth and creating opportunity – and prefer local autonomy in determining the best way locally. The Maryland Association of Counties (MACo) opposes state-mandated reductions in local revenue sources, but county governments welcome flexible and optional tools to serve and react to local needs and community priorities.

The General Assembly routinely considers broad or targeted tax incentives to stimulate economic growth, encourage beneficial activities, or attract and retain residents. These proposals sometimes focus exclusively on the State's tax structure, but often extend to local revenues as well.

In general, MACo stands for local self-determination. Counties, led by locally elected leaders directly accountable within the communities they serve, are best positioned to govern local affairs – ranging from land use to fiscal matters. MACo steadfastly guards this local autonomy and consistently advocates against one-size-fits-all policies that override local decision-making.

State tax incentives should be enacted as "local option" offerings to allow counties maximum flexibility in tailoring local policies to meet local needs and priorities. The State and its local governments already work together here – where the State routinely grants a state-level property tax credit, enabling county governments to enact their own as a local option.

MACo urges the Committee to primarily consider state income tax credits as the best means to incorporate local tax relief as part of a broader policy. MACo and county governments stand ready to work with state policymakers to craft flexible and optional tools to deliver broad or targeted tax incentives but resist state-mandated changes that preclude local input.

LOI – Senate Bill 380 – Income Tax - Subtraction M

Uploaded by: Justin Hayes

Position: INFO

**Letter of Information – Senate Bill 380 – Income Tax - Subtraction Modification - Water
Affordability Assistance**
Budget and Tax Committee
February 22, 2023

The Comptroller's Office would like to thank Senator Washington for bringing this bill and providing the opportunity to comment on it. Senate Bill 380 would create a subtraction modification for certain water affordability assistance, including water bill arrearage forgiveness.

- The Comptroller recommends amending the bill to require the localities to submit the required data to the Comptroller periodically and without a request from the Comptroller. The following amendment is suggested:

(2) ~~ON REQUEST, A~~ A UNIT OF STATE GOVERNMENT OR A LOCAL GOVERNMENT THAT ADMINISTERS A WATER AFFORDABILITY ASSISTANCE PROGRAM SHALL PROVIDE TO THE COMPTROLLER, WITHIN 30 DAYS OF THE DATE OF THE REQUEST FOR EACH QUARTER DURING THE YEAR THE UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT PROVIDES THE WATER AFFORDABILITY ASSISTANCE, AND IN THE MANNER REQUESTED BY THE COMPTROLLER, THE FOLLOWING INFORMATION:

As always, the Comptroller's Office is willing and available to discuss these concerns or any questions you may have at your convenience. Please contact Justin Hayes, Legislative Director at jhayes@marylandtaxes.gov or 410-260-7696.

