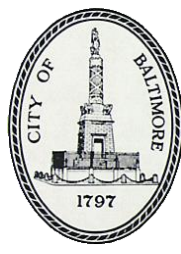


SB0880-EEE-FAV.pdf

Uploaded by: Brandon Scott

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 880

March 15, 2023

TO: Members of the Senate Education, Energy and the Environment Committee

FROM: Brandon M. Scott, Mayor, City of Baltimore

RE: Senate Bill 880 - Baltimore Regional Water Governance Task Force

POSITION: Support

Chair Feldman, Vice Chair Kagan, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) supports for Senate Bill (SB) 880.

SB 880 seeks to establish a task force which will be responsible for reviewing the organizational structure and governance models as outlined in the 2021 Water/Sewer Services Comprehensive Business Process Review for Baltimore City and Baltimore County as well as additional water and wastewater governance models to assess various regional approaches and make a recommendation as to which model may be best for the Baltimore Region.

I have worked with my Administration and County Executive Johnny Olszewski to develop the framework for this task force which will allow for an efficient, effective, and expeditious review to take place. SB 880 includes membership from Baltimore City, Baltimore County, members appointed by Governor Wes Moore, one member of the House of Delegates, one member of the Senate of Maryland, and one member representing the additional jurisdictions who use the water and wastewater systems of Baltimore City.

Baltimore City's water system was first established in the mid-19th century when the City had around 250,000 residents and has since undergone a vast expansion to provide service to nearly 1.8 million residential and business consumers across Baltimore City and 5 surrounding jurisdictions today

Today's utility includes three reservoirs containing 86 billion gallons of water, three water treatment plants, two wastewater treatment plants, and multiple pumping stations to serve the growing needs of the Baltimore region.

These treatment plants combined produce 360 million gallons of drinking water each day. Our wastewater treatment plants collect and treat an average flow of 200 million gallons of wastewater daily through a complex system of 3,100 miles of sanitary mains

We have been proud to diligently serve as the Baltimore region's water supplier for all of these years, but we are at a pivotal moment in history where we need to determine what the future needs of our region will look like and how to best address those needs through the utility.

Cities across the nation, and countries across the world are facing the harsh reality of the need and to ensure clean drinking water for future generations. Data from the US Census Bureau also makes clear that Black and Brown communities are those most disproportionately affected by water access issues.

Due to these historic and ongoing inequities, it is essential that we ensure that our services are efficient, equitable, and sustainable for every customer throughout the entirety of the system. We need to ensure that those who have the greatest responsibility for the utility are the ones engaged in performing the work. We need to ensure that the voices of those most vulnerable to the effects of climate change and the ongoing water crisis are heard.

The Task Force will not only review various governance models for their own merit, but will be responsible for determining which governance model would be best suited for OUR utility. Baltimore's water and wastewater utility, like any utility, has its own unique circumstances, so we must not just try and provide a cookie cutter solution to a complex problem.

For these reasons, I request a **favorable** report on SB 880.

Sydnor_SB 880 Testimony Fav-EEE.pdf

Uploaded by: Charles E. Sydnor III

Position: FAV

CHARLES E. SYDNOR III, ESQ.
Legislative District 44
Baltimore County



James Senate Office Building
11 Bladen Street, Room 216
Annapolis, Maryland 21401
410-841-3612 · 301-858-3612
800-492-7122 Ext. 3612
Charles.Sydnor@senate.state.md.us

Judicial Proceedings Committee

Executive Nominations Committee

Joint Committees

Administrative, Executive, and
Legislative Review

Children, Youth, and Families

Senate Chair
Legislative Ethics

Chair

Baltimore County Senate Delegation

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony Regarding SB 880
Baltimore Regional Water Governance Task Force
Before the Education, Energy, and Environment Committee
On March 15, 2023

Good afternoon Chair Feldman, members of the Education, Energy, and Environment Committee,

The water and wastewater systems that serve both Baltimore City and Baltimore County are owned and operated by Baltimore City under State law and regional agreements last updated in 1972.¹ As the region's population has grown and changed, and the operational and fiscal requirements of the utilities have become more complex, the leaders of Baltimore City and Baltimore County have agreed that it is time to evaluate the governance framework under which these critical systems are managed. Senate Bill 880 establishes the Baltimore Regional Water Governance Task Force to study the current framework of water and wastewater governance in this region, and to recommend how to correct issues that may be at play.

Given the age of the regional agreements, officials in both jurisdictions led an effort to conduct a study to determine whether changes are needed to modernize system management to improve customer service. Baltimore County and Baltimore City officials released a comprehensive study of the existing governance structure, operations, processes and procedures for shared water and wastewater systems in July 2021 called *Water/Sewer Services Comprehensive Business Process Review - Baltimore County and Baltimore City*. The report identified several challenges, including issues with customer billing, limited regional coordination, and systematic limitations for long-term planning and improvements to water systems.²

¹ NewGen Strategies & Solutions. [Water/Sewer Services Comprehensive Business Process Review Baltimore County and Baltimore City](https://www.newgenstrategies.com/net/2021/07/12/water-sewer-services-comprehensive-business-process-review-baltimore-county-and-baltimore-city). www/newgenstrategies/net July 12, 2021.

² *Id.*

Senate Bill 880 establishes a Task Force, using the 2021 study as its basis, to identify strengths and weaknesses of the current governance, planning, data management, and operations of the water and wastewater utilities, to identify opportunities to improve interjurisdictional collaboration, and to understand the current state of the structures and processes for the delivery of water and wastewater services, including operations, planning, and billing. Senate Bill 880 also empowers the Task Force to evaluate governance and operation models to determine the best fit for the Baltimore Region.³

Senate Bill 880 is an emergency bill. Its findings and recommendations are to be reported to the designated entities no later than January 30, 2024.

I ask for a favorable report on Senate Bill 880.

³ *jointly commissioned by Baltimore City and Baltimore County and finalized in July 2021.

SB 880_CBF_FAV.pdf

Uploaded by: Doug Myers

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 880

Baltimore Regional Water Governance Task Force

Date: March 15, 2023

To: Education, Energy, and the Environment Committee

Position:

Support

From:

Doug Myers

Maryland Senior Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 880 which creates a task force to consider a joint jurisdictional management authority for water and wastewater utility management in the Baltimore metropolitan region.

Recent failures at Baltimore's Patapsco and Back River Wastewater Treatment plants and the discovery of E. coli bacteria in drinking water resulting in a boiled water order underscores the need to address operations and maintenance issues at these facilities. Indeed, the failures at the wastewater treatment plants resulted in discharges to surface waters well in excess of permit limits effectively reversing progress on the state's Watershed Implementation Plan under the Chesapeake Bay Blueprint for 2020 and 2021.

CBF supports the creation of the Task Force, specifically to address staffing, training, certification and management of facility workforces and the logistical and financial support that will be needed to retain a trained and certified workforce at these facilities into the future. Significant capital upgrades have been made through the Bay Restoration Fund allowing these plants to theoretically meet enhanced nutrient reduction standards relied upon to meet Bay cleanup goals. We cannot sacrifice those investments or the health of our public and ecological resources by allowing the system to spiral into disrepair. SB 880 ensures that the important conversations necessary to reform governance of the Baltimore water and wastewater utility systems move forward.

CBF urges the Committee's FAVORABLE report on SB 880.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

SB 880 Support.pdf

Uploaded by: Jeff Tosi

Position: FAV



Wes Moore GOVERNOR

Aruna Miller LT. GOVERNOR

Charles Glass, Ph.D., P.E. EXECUTIVE DIRECTOR

March 15, 2023

The Honorable Brian Feldman, Chair
Senate Education, Energy and the Environmental Committee
Miller Senate Building, Room 2
Annapolis, Maryland 21401

Re: Senate Bill 880 - Baltimore Regional Water Governance Task Force

Dear Chairman Feldman,

The Maryland Environmental Service (MES) supports Senate Bill 880, which would establish the Baltimore Regional Water Governance Task Force to study approaches to water and wastewater governance in the Baltimore region. MES urges the committee to grant Senate Bill 880 a favorable report.

MES supports the design and construction, operations and maintenance, and management of biosolids at water and wastewater treatment plants (WWTP) across the State, including many municipal, county, and privately-owned facilities, as well as State-owned plants at correctional and health facilities, rest areas, and State parks. The MES engineering staff plan and manage capital improvement and other public works projects, helping clients determine their water and wastewater needs; assisting in selecting the right-size facility, technology, and equipment; preparing specifications; and overseeing the upgrades of older plants and the construction of new ones. In many cases, MES operations and maintenance staff remain on these sites, handling the day-to-day tasks that keep plants running smoothly and meeting permit requirements, along with help from the biosolids staff who work to ensure environmentally acceptable, reliable, and cost-effective methods are used to manage the solid material generated by each WWTP.

Previously, MES assisted Baltimore City in bringing the Back River WWTP into compliance. MES partnered with Baltimore City to accomplish this task in the first 90 days.

While MES would not be an official member of this proposed Task Force, MES is required to be consulted on the report development and recommendations. MES will add invaluable insight on many levels, and we look forward to contributing in any way we can.

Contact: Jeff Tosi, Director of Government Affairs
Phone/Email: 410-729-8504 (w) | jtosi@menv.com

BaltimoreCounty_FAV_SB0880.pdf

Uploaded by: Joshua Greenberg

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

JENNIFER AIOSA
Director of Government Affairs

AMANDA KONTZ CARR
Legislative Officer

JOSHUA M. GREENBERG
Associate Director of Government Affairs

BILL NO.: **SB 880**

TITLE: Baltimore Regional Water Governance Task Force

SPONSOR: Senator Sydnor

COMMITTEE: Education, Energy, and the Environment

POSITION: **SUPPORT**

DATE: March 15, 2023

Baltimore County **SUPPORTS** Senate Bill 880 – Baltimore Regional Water Governance Task Force. This vital legislation would establish the Baltimore Regional Water Governance Task Force.

For decades, residents of Baltimore County and Baltimore City have been served by shared water and wastewater utilities that are owned and operated by the City of Baltimore, and currently managed by an agreement dating back to 1972. This agreement does not reflect our region’s incredible growth since it was put in place over half a century ago. In 2021, Baltimore County joined Baltimore City to release a comprehensive 3rd-party review of the regional water and wastewater utilities that examined the system’s operations, management, and maintenance and identified opportunities for improvements. This evaluation also recommended that Baltimore City and Baltimore County explore regional solutions in order to help standardize high quality services across the region, improve customer experience, and lower shared costs.

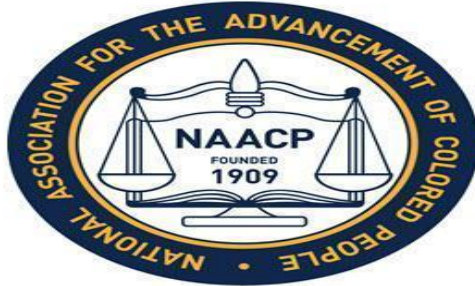
SB 880 creates a Task force on Baltimore Regional Water and wastewater to do precisely that. This legislation would address will advance collaborative decision making to provide safe and equitable water services in a way that prioritizes fairness, equity, and stability among rate payers. It will also afford shared responsibility for long-term capital planning, operation and maintenance, and prudent governance. By charting a shared vision for a modern, efficient, and equitable system, we will be better prepared to serve our residents, businesses, and visitors for decades to come.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 880. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

SB0880.pdf

Uploaded by: Ryan Coleman

Position: FAV



Randallstown

P.O. Box 731 Randallstown, MD 21133

March 14, 2023

Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SUPPORT SB 0880-Baltimore Regional Water Governance Task Force

Dear Chair Feldman, VC Kagan and Committee Members:

The Randallstown NAACP is based in Baltimore County with a membership of 500 individuals throughout the region. May it be known the mission of the Randallstown NAACP is to secure equal rights in order to eliminate race-based discrimination and ensure the health and wellbeing of all persons in Baltimore County and the State of Maryland.

On or around September 03, 2022, (Sat), during a routine test, the Department of Public Works 18 discovered positive results for E. coli in the water distribution system at Baltimore City Fire 19 Department Engine #8, located at 1503 West Lafayette Avenue

On September 4, 2022, (Sun), the second positive test came back positive for E. coli. Yosef Kebede, DPW's bureau chief for water and wastewater, sent an email at 11:35 a.m. to other DPW staffers relaying the positive test information. By noon, Kebede told other DPW staff, including DPW Director Jason Mitchell, that MDE had been notified of the positive test and there was "a possible need to issue [an] advisory to the public."

Greg Busch, water supply Mgr MDE stated on September 4, (Sun) at 8:30pm email, "To reiterate what we discussed during our 6:30 conversation, Baltimore City needs to issue a boil water advisory this evening," Busch wrote in his email reminder the city of the federal requirement to notify the public within 24 hours of a Tier 1 violation, per the Safe Drinking Water Act. The E. coli contamination would have fallen under a Tier 1 violation. A BWA did not go out to the public Sunday, despite multiple reminders from MDE.

On September 5, 2022 (Mon) At 7:43 a.m., DPW posted a notification on the neighborhood website Nextdoor and a thread on Twitter. The notice, however, did not include a boil water advisory requiring people in the impacted area to boil their water, rather the notice said "residents may want to consider boiling any water used from faucets." DPW did not release the correct information to boil all water until approx 5pm, on September 5, 2022.

Safe Drinking Water Act, § 141.201 General public notification requirements.

The Act states that "E Coli is a tier 1 violation and the public must be notified within 24 hours. Water suppliers must use media outlets such as television, radio, and newspapers, post their notice in public places, personally deliver a notice to their customers, or an alternative method approved by the primacy agency." The EPA also has a sample template:

https://www.epa.gov/sites/default/files/2021-02/documents/pn_e_coli_boil_advisory.pdf

The Baltimore City Council has questions

"Everyone was kept in the dark," said Councilman Isaac Yitzy Schleifer who represents District 5. "The big danger is that come Monday, you had babies' formula being mixed with E-coli water..you had seniors who were taking their medicine with E-coli water," he added. "I do believe that things could've been done better. I know we got information later in the game, right, in terms of late Sunday night into Monday morning," said Councilman John Bullock of District 9 where the contamination was concentrated. "(There's) a lot of frustration all around," said Councilman Eric Costello of District 11. "I think a lot of it was the department of public works as well as the Mayor's Office in terms of that unclear and inconsistent communication of the contamination of fact. I will say that as time went on, things did improve," said Costello.

Baltimore County Residents

The residents in Baltimore County were left in the dark because of the miscommunication from Baltimore City's Department of Public Works. The nearly 900,000 residents of Baltimore County do not have full voting representation, (cannot vote on the mayor or the Director of DPW) even though they are American citizens, and pay county taxes. This lack of political representation for Baltimore County residents — which has more people than Baltimore City— is the reason the oversight of Baltimore's water system disenfranchises and underrepresents county residents. This bill will allow for a path forward in the governance of the region's water system.

It is clear DPW and the City of Baltimore clearly violated § 141.201. Even more egregious is it appears the city is incompetent or has intentionally misled the public. The City of Baltimore can not be allowed to control the water supply that reaches residents in Baltimore, Howard, Harford, Anne Arundel and Harford counties. Clean drinking water is a civil rights issue and all residents of Maryland should have clean drinking water.

The Randallstown Branch of the NAACP urges a favorable report from the committee on SB 0880.

Best,

Ryan Coleman
Randallstown NAACP, President

Baltimore Regional Water Governance Task Force

Uploaded by: Senator Jill Carter

Position: FAV

SB 880 Talking Points - Baltimore Regional Water Governance Task Force

- Good afternoon, Chairman Feldman, Vice-Chair Kagan, and Members of the Committee,
- For the record, I am Senator Jill^{P.} Carter, chair of the Baltimore City Senate Delegation, and I'm proud to join my Baltimore County Senate Delegation counterpart, Senator Sydnor, to present Senate Bill 880.
- For more than 90 years, Baltimore City has operated and managed the water supply system within and outside of its borders. Baltimore City has a long history as a population center, a hub of innovation, and a thriving economic center. Baltimore City's water system, when it was first established, serviced around 250,000 residents. Today, our water system now provides service to nearly 1.8 million residential and business consumers across Baltimore City and 5 surrounding jurisdictions.
- Water is a human right and simply providing access to water and sewerage services isn't enough – it is our obligation to put in place legislation that gives our residents access to long-term quality services while protecting one of their most basic needs.
- SB 880 would create the Baltimore Regional Water Governance Task Force, which will allow for an in-depth analysis of the operations and management of the water and wastewater system and calls upon the task force to provide a recommendation to the Mayor, Baltimore County Executive, Governor, and General Assembly.
- This bill also ensure that the recommendations made reflect the specific needs of the Baltimore Region. The task force would be charged with examining other governance models to identify options that will improve efficiency, ensure equity, and lead to a better customer experience for residents throughout the region.
- This task force is a step in the right direction toward ensuring that the future of our water utility reflects the growing regional need of its customers.

SB 880 Talking Points - Baltimore Regional Water Governance Task Force

- There is power in partnership and the formation of this task force is a key step to securing a better future for our residents and a more efficient governance structure for our shared water resources.
- For those reasons I request a favorable report for SB 880.

MDE SB0880 SUPP .docx.pdf

Uploaded by: Tyler Abbott

Position: FAV



The Maryland Department of the Environment
Secretary Serena McIlwain

Senate Bill 880
Baltimore Regional Water Governance Task Force

Position: Support

Committee: Education, Energy, and Environment Committee

Date: March 15, 2023

From: Gabrielle Leach

The Maryland Department of the Environment (MDE or the Department) **SUPPORTS** Senate Bill 880. The bill would establish a Task force to identify and recommend water supply and wastewater collection governance structures best suited for the Baltimore region.

Senate Bill 880 would establish a Task force to study water supply and wastewater governance in Baltimore City and surrounding jurisdictions that are served by Baltimore City's water supply and wastewater collection systems. The Task force would consist of thirteen (13) members, appointed by certain governmental groups. Staff for the Task force would be jointly provided by the Mayor of Baltimore City and the County Executive of Baltimore County. HB 843 does not provide for MDE to be represented on the Task force, however, the bill requires the Task force to consult with MDE, and Maryland Environmental Service, in developing its recommendations and report. MDE has regulatory responsibilities over the Task force's subject areas and expects to provide subject matter expertise regarding necessary legislation and funding to establish the recommended model.

Additionally, the bill follows up to the July 2021 Water/Sewer Services Comprehensive Business Process Review that was jointly undertaken by Baltimore City and Baltimore County. The consultants on that project "provided several models of governance and operations that may provide optimal customer service, system reliability, or interjurisdictional collaboration, and specifically recommended the exploration of alternative governance structures."

MDE believes the Task force will be helpful in recommending a comprehensive and long-term solution to wastewater needs in the Baltimore metropolitan region. Accordingly, MDE urges a **FAVORABLE** report for SB 880.

Regional Water Governance Task Force Testimony - S

Uploaded by: Alice Volpitta

Position: FWA



March 15, 2023

Bill: Baltimore Regional Water Governance Task Force (SB0880)

Position: Favorable with Amendment

Dear Chairman Feldman and Members of the Education, Energy, and the Environment Committee,

Blue Water Baltimore's mission is to restore the quality of Baltimore's rivers, streams, and Harbor to foster a healthy environment, a strong economy, and thriving communities. **We write today to offer strengthening amendments to SB0880 - Baltimore Regional Water Governance Task Force.**

Blue Water Baltimore is deeply familiar with the systemic problems with Baltimore's water infrastructure, from sewage overflows into our local waterways to sewage backups into residents' homes. We are plaintiff intervenors in the City's Modified Consent Decree for sewage overflows, long-time advocates for assistance for residents impacted by sewage backups, and are currently party to a lawsuit focused on Clean Water Act violations at the Back River and Patapsco Wastewater Treatment Plants. As a Waterkeeper organization, Blue Water Baltimore speaks on behalf of the Patapsco and Back Rivers, and we seek to amplify the voices of the people who live, work, and recreate near these waterways.

Many of the longstanding challenges with water quality and water infrastructure in Baltimore City are rooted in decades of inequitable infrastructure investments and environmental racism. These problems can, therefore, only be redressed through intentional interventions and significant investments that center racial and economic equity. Supporters of water utility regionalization such as the American Water Works Association and U.S. Water Alliance often frame the consolidation of local water systems as a logical way to support aging and under-resourced local systems, much like Baltimore City's. By pooling resources, the argument goes, a regional system can lead to operational, staffing, and financial stability, more reliable service, improved emergency response, and effective long-term planning and management.^{1,2}

While there can be significant benefits to consolidating the management of water systems, there are also serious impacts that must be considered and mitigated based on experiences in other jurisdictions. A key point of comparison in this case is Detroit, whose water system was regionalized in 2013, much to the detriment of Detroit's Black residents. Since Baltimore City and County have similar racial and class differences as Detroit does with its surrounding counties, it is vital that legislators look seriously at what happened in Detroit and ensure that you are centering an equity lens in your consideration of this legislation and any subsequent discussions of regionalizing Baltimore's water system.

¹ American Water Works Association. (Last updated April 19, 2019). [AWWA Policy Statement on Regional Collaboration by Water Utilities](#).

² U.S. Water Alliance. (2019). [Utility Strengthening through Consolidation: A Briefing Paper](#).

2631 Sisson Street • Baltimore, MD 21211 • 410.254.1577 • www.bluewaterbaltimore.org

Lessons to Learn from Regional Water Authority in Detroit

Prior to 1977, Detroit fully controlled its region's water system, similar to how Baltimore City owns and manages the Baltimore region's water system today. For decades, predominantly white suburban politicians unsuccessfully attempted to create a regional authority through legislation to take control of the water system away from the city, efforts that predominantly Black city leaders strongly opposed.³ After violations of federal Environmental Protection Agency regulations, a federal judge oversaw Detroit's water system between 1977 - 2013. This federal oversight is seen by critics of regionalization as the first step toward taking control of the system away from the city.

During Detroit's 2013 bankruptcy process, a regional water board, the Great Lakes Water Authority (GLWA), was officially created. Under this arrangement, Detroit still technically owns the water system but leases it to the GLWA for \$50 million dollars per year. The GLWA is governed by a six-member board: two members are from the city; three others are from the predominantly white surrounding counties, and the last is appointed by the governor.⁴ This makeup ensures that the city can be easily outnumbered by representatives from the surrounding counties. Critics have observed that as white suburban leaders have exerted their power through the regional system, they have further racially stigmatized the City of Detroit and removed the City's agency over water provision for its predominantly Black and low-income residents, worsening existing crises such as water shutoffs.⁵

Given Detroit's troubled experience with regional control over its water system and the significant problems with regional approaches to water and wastewater management in other majority Black cities in the U.S., it is incumbent upon the General Assembly to heed these warnings and ensure that Maryland does not repeat these mistakes.

Strengthening Amendments

As you consider this bill, we urge you to strengthen it by ensuring a **broader range of stakeholders** are represented on and consulted by the Task Force, mandating meaningful opportunities for **public input and engagement**, requiring **racial and economic equity impact assessments**, ensuring any alternative governance models explored by the Task Force **uphold and protect existing ratepayer and labor protections**, and **extending the timeline** for this complex work to be conducted.

This bill seeks to build off the recommendations from a 2021 business review of water and sewer services commissioned by Baltimore City and Baltimore County.⁶ A key conclusion of that study – that the City and County need to better understand and evaluate the system before making any decisions about restructuring it – support the need for these strengthening amendments.

This bill aims to codify the third recommendation from that report, focused on convening stakeholders. The 2021 study specifically named the importance of including “a broad range of stakeholders.”⁷ But as currently written, this Task Force is far too narrow in its membership to fulfill that recommendation. At minimum, **low-income ratepayers and labor unions must be represented on the Task Force** to ensure that any potential alternative governing structure does not negatively impact the most vulnerable users of the water system or the workers who operate and sustain it. To enable a diversity

³ Jon Cramer. (October 31, 2015). [Race, Class, and Social Reproduction in the Urban Present: The Case of the Detroit Water and Sewage System](#). *Viewpoint Magazine*.

⁴ Cramer, 2015.

⁵ Kornberg, D. (2016, June 17). [The Structural Origins of Territorial Stigma: Water and Racial Politics in Metropolitan Detroit, 1950s-2010s](#). *International Journal of Urban and Regional Research* 40(2), 263-283.

⁶ NewGen Strategies & Solutions. (July 2021). [Water/Sewer Services Comprehensive Business Process Review, Baltimore County and Baltimore City](#).

⁷ NewGen, 2021.

of experiences and perspectives to participate on the Task Force, the **required background knowledge should also be expanded** to include utility affordability, sewage backups, climate resilience, stormwater, collective bargaining, racial equity impact assessments, source water protection, integrated planning, and public health.

As well as adding these voices and areas of expertise to the Task Force itself, members should **consult with more stakeholders and experts** as they examine alternative governance models. Since the Task Force does not include representatives for all of the affected jurisdictions, each impacted county must at least be consulted throughout the process. The Task Force should also consult the Maryland Commission on Environmental Justice and Sustainable Communities, the Environmental Protection Agency, and the Washington Suburban Sanitary Commission to reduce unintended consequences to overburdened and underserved communities, ensure strong environmental and social outcomes, and learn lessons from other regions.

In addition to the narrow Task Force membership, a key problem with this bill is the complete lack of opportunities for public input. Baltimore's water and wastewater system serves 1.8 million people. Any discussions about altering the governance and management of a utility that provides vital services to that large of a population **must be vigorously discussed and debated in public with meaningful opportunities for residents and ratepayers to provide input**. The Task Force must advertise all of its meetings and ensure they are open to the public in alignment with Maryland's Open Meetings Act, hold a series of public hearings in all of the impacted jurisdictions, provide a comment period on a draft report before finalizing its recommendations, and explicitly acknowledge and respond to public input in the final report. Specific recommendations about the number and location of hearings and other details can be found in the amendment language attached to our testimony.

As many scholars and activists have pointed out, the regionalization of water and sewer systems is part of a broader national trend of regional and state government entities transferring control of infrastructure assets away from majority Black cities.⁸ Given that water regionalization can result in increased water rates, reduced community input, and deferred maintenance on local infrastructure, Justin Keller and Sarah J. Howe of the Metropolitan Planning Council conclude that "communities of color have more to lose from water service regionalization."⁹ Therefore, **this Task Force must conduct thorough racial and economic equity impact assessments** to account for any disparate impacts a regional governance structure may have, particularly on Baltimore City's Black and low-income residents.

It is also important to note that regional systems typically preempt existing local laws and programs. Blue Water Baltimore has fought hard for increased protections for residents impacted by sewage backups in Baltimore City through improvements to the Expedited Reimbursement Program and the establishment of the Sewage Onsite Support program. Our allies at the Right to Water Coalition have achieved significant ratepayer protections via the Water Accountability and Equity Act, and Baltimore City voters overwhelmingly approved Ballot Question E in 2018 banning the privatization of the city's water system. Unions in local jurisdictions have fought for years to negotiate collective bargaining agreements for their members. All of these hard-won protections could be jeopardized by a regional body, thereby disenfranchising local residents and workers. **The Task Force must commit to only considering public sector solutions that honor and uphold existing local ratepayer and worker protections.**

⁸ Cramer, 2015.

⁹ Justin Keller and Sarah J. Howe. (December 6, 2021). [The missing component in water service regionalization debates: equity](#). Metropolitan Planning Council.

Finally, **the timeline for the Task Force's work must be extended** to enable sufficient time for the numerous analyses necessary to properly assess alternative governance options to be conducted and to solicit public input.

We urge a favorable report on SB0880 with the suggested strengthening amendments.

Sincerely,

A handwritten signature in black ink that reads "Alice Volpitta". The signature is written in a cursive, flowing style.

Alice Volpitta
Baltimore Harbor Waterkeeper

Amendment 1. Adjusting the membership of the taskforce

Page 3, line 2
After "Governor"
add

"INCLUDING: 1. ONE REPRESENTATIVE FROM A LOCAL COMMUNITY ORGANIZATION REPRESENTING LOW-INCOME WATER RATEPAYERS IN THE CITY, AND 2. ONE LOW-INCOME WATER RATEPAYER IN THE CITY."

Page 3, line 3
After "Mayor of Baltimore City"
add

", INCLUDING AT LEAST ONE MEMBER FROM CITY UNION OF BALTIMORE, AFT LOCAL 800, REPRESENTING EMPLOYEES WORKING IN THE CITY'S WATER/WASTEWATER FACILITIES

Page 3, line 5
After "County"
add

", INCLUDING AT LEAST ONE MEMBER FROM THE BALTIMORE COUNTY FEDERATION OF PUBLIC EMPLOYEES, AFT LOCAL 4883, REPRESENTING COUNTY EMPLOYEES WORKING IN THE COUNTY'S WATER DEPARTMENT"

Page 3, line 13
Strike "or"
and add

"4. UTILITY SERVICE AFFORDABILITY, INCLUDING PERSONAL KNOWLEDGE; 5. RACIAL EQUITY IMPACT ASSESSMENTS; 6. COLLECTIVE BARGAINING AGREEMENTS; 7. SEWAGE BACKUPS, INCLUDING PERSONAL KNOWLEDGE; 8. STORMWATER; 9. INTEGRATED PLANNING; 10. CLIMATE RESILIENCY; 11. SOURCE WATER PROTECTION; OR 12. PUBLIC HEALTH; AND"

Page 3, line 14
After "(ii)"
add

"EITHER 1. RECEIVE WATER AND WASTEWATER SERVICE FROM THE WATER AND WASTEWATER UTILITY, OR 2."

Amendment 2. Including racial equity and economic equity impact assessments

Page 5, line 6
Strike "and"
and add

“(5) CONDUCT A RACIAL EQUITY IMPACT ASSESSMENT AND AN ECONOMIC EQUITY IMPACT ASSESSMENT FOR EACH ALTERNATIVE GOVERNANCE STRUCTURE; AND”

Page 5, line 7

Strike “(5)”

and add

“(6)”

Amendment 3: Directing the Task Force to limit their study to public sector solutions that will (1) exclude private for-profit ownership, operation or management of the systems as prohibited by the Baltimore City Charter, (2) protect democratic decision-making and the rights of workers and residents, and (3) not undermine or conflict with local water affordability laws and charter protections approved by voters.

Page 5, line 11

After “Task Force shall”

Add

“(1) CONSIDER ONLY ALTERNATIVE GOVERNANCE MODELS THAT ADHERE TO RATEPAYER AND LABOR PROTECTIONS ESTABLISHED BY LOCAL JURISDICTIONS, INCLUDING: (i) BALTIMORE CITY BALLOT QUESTION E OF 2018, WHICH WAS APPROVED BY VOTERS, TO AMEND THE CITY CHARTER TO PROHIBIT PRIVATE, FOR-PROFIT OWNERSHIP, OPERATION OR MANAGEMENT OF THE WATER SUPPLY AND WASTEWATER SYSTEM; (ii) THE WATER ACCOUNTABILITY AND EQUITY ACT OF BALTIMORE CITY, WHICH ESTABLISHED: A LOW-INCOME WATER AFFORDABILITY PROGRAM; WATER SHUTOFF PROTECTIONS FOR VULNERABLE HOUSEHOLDS; A DISPUTE RESOLUTION PROCESS; RIGHTS OF TENANTS TO RECEIVE THEIR BILLS, ACCESS ASSISTANCE, AND DISPUTE RESOLUTION; AND AN OFFICE OF CUSTOMER ADVOCACY AND APPEALS; (iii) COLLECTIVE BARGAINING AGREEMENTS, WORKER PENSIONS, AND BENEFITS FOR WORKERS IN THE CITY AND THE COUNTY; AND (iv) BALTIMORE CITY’S SEWAGE ONSITE SUPPORT PROGRAM AND EXPEDITED REIMBURSEMENT PROGRAM; ”

Page 5, line 11

Before “consult with”

add

“(2)”

Amendment 4: Requiring public input.

Page 5, line 12

After “Service”

strike “.”

and add

“; AND (3) PROVIDE OPPORTUNITIES FOR PUBLIC INPUT BY: (1) PUBLISHING A DRAFT OF ITS FINDINGS AND RECOMMENDATIONS FOR PUBLIC REVIEW ON THE WEBSITES OF THE CITY AND COUNTY; (2) HOLDING PUBLIC HEARINGS: (I) PRIOR TO THE DEVELOPMENT OF A DRAFT REPORT; (II) AFTER THE ISSUANCE OF A DRAFT REPORT; (III) WITH HEARINGS HELD ONLINE AND IN PERSON AT DIFFERENT TIMES OF DAY AND LOCATED AT: 1. THE SEVEN EARLY VOTING SITES WITHIN THE CITY; 2. FIVE LOCATIONS IN THE COUNTY AT SITES WITHIN THE WATER SYSTEM SERVICE AREA THAT ARE CONVENIENT FOR PUBLIC TRANSPORTATION; AND 3. ONE LOCATION IN EACH OF THE FOUR OTHER JURISDICTIONS OF THE AFFECTED COUNTIES. (3) PROVIDING A PUBLIC COMMENT PERIOD OF AT LEAST 90 DAYS ON THE DRAFT REPORT PRIOR TO FINALIZING THE FINDINGS AND RECOMMENDATIONS; (4) ASSESSING THE PUBLIC INPUT IN THE FINAL REPORT BY (I) SUMMARIZING THE PUBLIC HEARINGS, PUBLIC COMMENTS, AND OTHER FEEDBACK; (II) ADDRESSING HOW THAT INFORMATION WAS INCORPORATED INTO THE FINAL REPORT AND RECOMMENDATIONS; AND (III) EXPLAINING THE REASONS WHY ANY PUBLIC FEEDBACK WAS NOT INCORPORATED INTO THE FINAL REPORT AND RECOMMENDATIONS; (5) ADVERTISING ALL TASK FORCE MEETINGS ON THE WEBSITES OF ALL AFFECTED JURISDICTIONS AND THE MARYLAND DEPARTMENT OF ENVIRONMENT, AND ON AT LEAST ONE SOCIAL MEDIA ACCOUNT; AND (6) HOLDING ALL MEETINGS OPEN TO THE PUBLIC ONLINE AND IN-PERSON, PURSUANT TO THE MARYLAND OPEN MEETINGS ACT.”

Amendment 5: Expanding the timeline to allow sufficient time to conduct the review and solicit public feedback.

Page 5, line 13

After “On or before”

add

“JUNE 30, 2025, THE TASK FORCE SHALL REPORT ITS DRAFT FINDINGS AND RECOMMENDATIONS TO THE MAYOR OF BALTIMORE CITY, THE COUNTY EXECUTIVE OF BALTIMORE COUNTY, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.”

Page 5, line 13

Strike (i)

Add

“(j)”

Page 5, line 13

After “On or before”

strike “January 30, 2024” and

add

“June 30, 2027”

Page 5, line 13

After “Task Force shall report its”

add

“final”

Page 5, line 21

After “remain effect through June 30,”

strike “2024” and

add

“2027”

Page 5, line 21

After “at the end of June 30,”

strike “2024” and

add

“2027”

Additional provisions to further the purposes of this legislation:

- Provide not less than \$2 million in funding from the State general fund to produce expert analyses on various governing models and alternatives, and to provide stipends for low-income ratepayers to participate on the taskforce. Analyses should include:
 - Comprehensive rate analyses;
 - Fiscal impact analyses for the City, County, stormwater systems of City and County, and the water /sewer utility systems;
 - Racial equity impact assessment;
 - Economic equity impact assessment;
 - Environmental impact and environmental justice analyses;
 - Legal analysis, including an assessment of legal consequences for local ratepayer and labor protections established by local jurisdictions, for the existing federal consent decree, and for any outstanding lawsuits;
 - Examination of other case studies of regional models beyond the limited sampling included in the 2021 review, and inclusive of Detroit/ Great Lakes Regional Water Authority, as there is substantial research available about how this regionalization deepened regional racial inequities; and
 - Alternatives analysis of options other than a governance change to address the underlying problems, such as how to address staffing shortfalls and equity in allocation of state and federal funding to the water/sewer system.
- Expand the Task Force’s scope of study to assess all six tasks included in the entire 2021 review.
- Expanded consultation in section (h) to include representatives for all affected jurisdictions, the Maryland Commission on Environmental Justice and Sustainable Communities, the U.S. Environmental Protection Agency, and the Washington Suburban Sanitary Commission.

CUB-SB880FWA.pdf

Uploaded by: Antoinette Ryan-Johnson

Position: FWA



City Union of Baltimore

Local 800, AFT, AFL-CIO

**Written Testimony Submitted to the
Senate Education, Energy, and the Environment Committee
From the City Union of Baltimore, AFT Local 800
SB 880– Baltimore Regional Water Governance Taskforce
March 15, 2023**

Favorable-with-amendments

Good morning, members of the Senate Education, Energy, and the Environment Committee. My name is Antoinette Ryan-Johnson, and I am the President of the City Union of Baltimore, a union for Baltimore City employees, including almost 400 city employees working in the city's water and wastewater department. We call for a favorable-with-amendments report for SB 880, the bill that would create a taskforce to study the potential to create a regional water utility for Baltimore City and County. We have appended the proposed amendments to our written testimony for your review.

Our amendments– drafted in concert with our coalition partners in Food and Water Watch, the NAACP Legal Defense Fund, and other environmental and social justice organizations– relate largely to three major fields:

1. taskforce membership to ensure employee and community voices are included in these vital discussions;
2. insurances that the water utility system will not be privatized and the protections the people of Baltimore have placed to safeguard their water system are respected; and
3. adjusting the timeline of a report due back so that these major substantial issues can be studied with the depth and breadth necessary for an undertaking of this sort, with opportunities for enough input on the work of the taskforce from the residents of Baltimore City and County.

The City Union of Baltimore represents city workers who work in the water and wastewater systems for Baltimore city, our members perform many duties for the City including supervising the operations and employees of the fresh water and wastewater plants, testing and treating fresh water to ensure it is safe for human consumption, testing and treating waste water to ensure it is environmentally safe and free of harmful contaminants. Other employees supervise and maintain the billing system in Baltimore City, generating revenue for the City. While others maintain the residential and commercial meter systems as well as the maintaining the above ground and underground utilities of the water system. These members

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not only have particular, valuable, front-line insights on the strengths and weaknesses of the current system, but also have a right to participate in larger conversations over decisions that may impact their work. Their representation on this taskforce is a must.

Members of the committee, the proposed work of this taskforce must not be understated: the undertaking of a monumental task to re-envision how water, a fundamental human right, is fairly and equitably distributed to residents in both our city and Baltimore County, must not be taken lightly. This task must have ample input from the community members most impacted by decisions being made, and include voices of those who are engaged in the day-to-day operations of the delivery and upkeep of our city's water system. Our amendments to the taskforce membership portion of the bill call for the mayor and the county executive to appoint at least one representative each from the union of City and County employees currently working for the water systems. In addition, the amendment calls for the Governor to appoint members to the taskforce that represent low-income water rate payers, as water affordability issues have been at the forefront of conversations regarding City and County water over the past decade.

Finally, we call for a rethinking of the deadline for the taskforce to submit its report and recommendations to the general assembly; nine months is simply just not enough time to effectively study this issue, consider the potential outcomes, and hear concerns from impacted members of the public. While there has been a study published in 2021, commissioned by both the city and the county, that study was a general business process review. If the charge of this taskforce is to look specifically at how the current water system may be transformed into another alternative regional water system, more time needs be devoted to looking at the costs and means by which the current systems can be transferred to a new regional entity.

We ask that the committee adopt these amendments and issue a favorable-with-amendments report to SB 880. Thank you.

SB 880 Baltimore Regional Water Governance Task Fo

Uploaded by: Cait Kerr

Position: FWA

Wednesday, March 15, 2023

TO: Brian Feldman, Chair of Senate Education, Energy, and the Environment Committee; and Committee Members

FROM: Michelle Dietz, The Nature Conservancy, Director of Government Relations; and Caitlin Kerr, The Nature Conservancy, Conservation & Climate Policy Analyst

POSITION: Support SB 880 – Baltimore Regional Water Governance Task Force

The Nature Conservancy (TNC) supports SB 880 offered by Senator Sydnor. TNC is a global conservation organization working to conserve the lands and waters on which all life depends. In Maryland, our work focuses on delivering science-based, on-the-ground solutions that secure clean water and healthy living environments for our communities, reducing greenhouse gas emissions and increasing resilience in the face of a changing climate. We are dedicated to a future where people and nature thrive together.

SB 880 creates a Baltimore Regional Water Governance Task Force, which will study water and wastewater governance in Baltimore. The Task Force will be responsible for reviewing existing regional governance models, assessing these as well as alternative structures for the utility, analyzing fiscal implications and finally recommending a governance model best suited for the Baltimore region. This process will ultimately result in a model that is most appropriate to improve management, operations, billing, capital planning and rate stability for the Baltimore water and wastewater utilities' customers.

The regional water and wastewater utilities in Baltimore City, Baltimore County and surrounding jurisdictions are currently operating under an agreement that is over 50 years old. In this agreement, Baltimore City carries the responsibility for water supply and wastewater operations, maintenance, and capital investments for a system that serves nearly 1.8 million residents. SB 880 will assist in modernizing the water and wastewater utilities by requiring the Task Force to analyze models and recommend a governance structure that will take into consideration changes to the Baltimore region over the past half century. This will include variables such as changes to population growth as well as ensuring equitable cost sharing for all jurisdictions covered by the utility system. The new recommended system of governance will deliver efficient, equitable, and sustainable essential services to the residents of Baltimore City, Baltimore County and the surrounding communities.

TNC has been working with elected officials in Baltimore City and Baltimore County to explore potential avenues for creating a Regional Resilience Authority. Resilience Authorities allow local governments to prioritize interventions toward their most pressing impacts from climate change based on local geographic, economic, and social factors; and to develop projects that minimize and mitigate those challenges. Establishing a Resilience Authority within the Baltimore region would provide opportunities to fund critical projects aimed toward building local resilience and reducing environmental hazards. A Regional Resilience Authority would identify projects eligible for federal grant funds and other independent funding sources. This would also provide a provide a flexible financing system for innovative sustainability infrastructure projects that compliment ongoing state, regional, and local investments to prepare existing infrastructure and create new infrastructure to be capable of withstanding the increasing climate threats. TNC recommends amending SB 880 to expand the Baltimore Regional Water Governance Task Force's scope to engage on resilient infrastructure and flood mitigation.

Recommendations: We recommend that each Task Force member have knowledge of flood mitigation and resilient infrastructure. We also recommend that the Task Force assess how different regional approaches may improve flood mitigation and infrastructure resilience and preparedness for current and future environmental hazards. In addition to these recommendations, TNC also supports the amendments proposed by Blue Water Baltimore.

TNC commends Senator Sydnor for introducing SB 880, which will lead to the creation of a modern, efficient and equitable water and wastewater system for the residents of Baltimore City and Baltimore County.

Therefore, we urge a favorable with amendments report on SB 880.

SB880_FAVAmendment_AFSCME.pdf

Uploaded by: Cindy Smalls

Position: FWA



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SB880-Baltimore Regional Water Governance Task Force
Education, Energy and Environment
March 15th, 2023
Favorable with Amendment

Good afternoon, Chair Feldman and Vic-Chair Kagan and members of the Education, Energy, and the Environment Committee. Thank you for the opportunity for AFSCME to submit testimony in favor with amendments on SB880 the Baltimore Regional Water and Governance Task Force bill. The purpose of this bill is to establish the Baltimore Regional Water Governance Task Force to study approaches to water and wastewater governance in the Baltimore region, and generally relating to water supply and wastewater treatment in the Baltimore region. This bill will also be discussing they system’s operation, employe recruitment and retention which is why we need labor represented on the task force.

The future of the Baltimore Water System is important not only to the residents, but also to those workers who work for BPW. AFSCME local 44 in Baltimore City and Local 921 represent public employees in local government and specifically working on the water system. As we move forward with this creation of a task force to study the future of our water system, our members (AFSCME) have a vested interested in being a part of the conversation of its future and its employees. We believe that our members’ expertise and experiences would be invaluable to the task force as discussions concerning employee recruitment and retention, training, and operations are being proposed.

Around the country, labor unions have participated on task forces to lend a worker’s prospective on many issues. We believe that labor’s voice, with is missing from SB880, not only add value to the task force, but strengthens it. Labor union members not only work in Baltimore City and County but are residents who reside this these localities and have a vested interest in building a stronger water system in the region.

We are asking for the following amendment:

Add the following language to Page 3, Line 9, moving all subsequent language down:

(vii) two members representing water and wastewater workers, appointed by the Maryland State & DC AFL-CIO.

Baltimore City and Baltimore County will be engaging important conversations concerning their water system to identify strengths and weaknesses of the current governance, planning, data management, and operations of the water and wastewater utilities, to identify opportunities to improve the system and labor should be a part of that discussion. We are asking the committee for your help in achieving that.

We thank the committee for your time, and we respectfully ask for a favor report with the proposed amendment on SB880.

American Federation of State, County and Municipal Employees, AFL-CIO

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Favorable with amendments for HB843-SB880 .pdf

Uploaded by: Dave Arndt

Position: FWA

Favorable with amendments for (HB843-SB880) - Baltimore Regional Water Governance Task Force

The five amendments seek protect ratepayers and workers as the Task Force guides future state legislation and are below:

Amendment 1. Low-Income Ratepayer and Labor Representation on the Taskforce. This amendment would require (1) the County Executive and Mayor to each appoint one labor representative, (2) the Governor's appointees to include one low-income ratepayer and one representative from a local community organization representing low-income ratepayers; and (3) all Task Force members to be either ratepayers or representatives of ratepayers.

Amendment 2. Racial and Economic Equity. This amendment would require racial equity and economic equity impact assessments of each alternative governing structures.

Amendment 3: Low-Income Ratepayer and Labor Protections. This amendment would direct the Task Force to limit their recommendation to governing models that adhere to local ratepayer and worker protections, including (1) Ballot Question E of 2018 that banned private for-profit ownership, operation or management of the systems, (2) the Water Accountability and Equity Act, which established a local water affordability program and other ratepayer protections, (3) collective bargaining rights of workers, and (4) the sewage backup reimbursement programs.

Amendment 4: Public Input. This amendment would require public input at public hearings throughout the City and County. It would require a public comment period on a draft report.

Amendment 5: Timeline. This amendment would extend the timeline from January 2024 to June 2027 to allow sufficient time for due-diligence and public input and comments.

Dave Arndt, Baltimore

Baltimore Regional Taskforce Written Testimony Dra

Uploaded by: David Wheaton

Position: FWA



**Written Testimony of David Wheaton
Economic Justice Law and Policy Fellow
NAACP Legal Defense and Educational Fund, Inc.**

**Submitted to the Education, Energy, and Environment Committee of
the Maryland State Senate
In Connection with the March 15, 2023 Hearing**

I. Introduction

My name is David Wheaton, and I am an Economic Justice Law and Policy fellow with the NAACP Legal Defense and Educational Fund, Inc. (LDF). LDF offers the following testimony regarding Maryland Senate Bill 880, which would create a Baltimore Regional Water Governance Task Force charged with recommending a new governance model for the Baltimore water and sewer system with the purpose of informing potential state legislation on this issue.

Access to clean and affordable water is a fundamental human right, and essential to sustaining life. Safeguarding water affordability and water quality for low-income and Black households in Maryland should be a top priority for the state. Baltimore City's water system provides water and wastewater services to approximately 1.8 million people in the greater Baltimore region,¹ many of whom are Black and low-income. Unfortunately, aging infrastructure due to systemic underinvestment has led to ongoing management and water quality and affordability issues.² While we support efforts to improve Baltimore residents' access to safe and affordable water, we are concerned that the bill as written will have a disastrous effect on low-income and Black residents of Baltimore and the wider region. The Task Force is not structured in a way that will protect Baltimore residents' access to safe, affordable water. The State must ensure that disadvantaged communities have equitable access to critical water services.

¹ Baltimore Department of Public Works, *Baltimore DPW: The Region's Water Supplier*, Updated 2018, <https://publicworks.baltimorecity.gov/drinkingwater>

² Jenna Portnoy, *West Baltimore Must Boil Water After E. coli Finding*, The Washington Post, Sept. 6, 2022, <https://www.washingtonpost.com/dc-md-va/2022/09/06/baltimore-water-ecoli-sandtown-harlem/>

Founded in 1940 by Thurgood Marshall, LDF is the nation’s oldest civil rights law organization. LDF was launched at a time when America’s aspirations for equality and due process of law were stifled by widespread state-sponsored racial inequality. For more than 80 years, LDF has relied on the Constitution and federal and state civil rights laws to pursue equality and justice for Black Americans and other people of color. LDF's mission has always been transformative: to achieve racial justice, equality, and an inclusive society.

In 2019, LDF published a report on the water affordability crisis centering the conversation on its disproportionate racial impact entitled, “Water/Color: A Study Of Race And The Water Affordability Crisis In America’s Cities.”³ The report outlines how low-income families of color are being forced out of their homes due to rapidly rising water prices.⁴ Currently, LDF is litigating a class action lawsuit in the Northern District of Ohio against the City of Cleveland on behalf of the city’s Black residents who are disproportionately affected by the city water department’s practices. The lawsuit, which brings claims under the Fair Housing Act, challenges the racially discriminatory and unfair policies of the Cleveland Water Department which not only leave Black residents without the basic necessity of water, but can also lead to the loss of their homes.⁵ This was the first Fair Housing Act lawsuit to challenge a City’s practice of placing liens on residents’ properties due to overdue water bills.⁶

II. Black Communities Disproportionately Struggle to Access Safe, Affordable Water.

Government policies have long denied Black communities equal access to safe, affordable water, including in Baltimore. There is a clear link between racial discrimination and water affordability, with aging infrastructure at the heart of rising water costs.⁷ The biggest factor contributing to rising water costs in the United States is aging and failing infrastructure.⁸ Utilities nationwide have ranked the renewal and replacement of aging water and wastewater infrastructure as the most

³ NAACP Legal Defense and Educational Fund, *Water/Color: A Study of Race & the Affordability Crisis in American Cities*, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

⁴ Id.

⁵ Press Release, NAACP Legal Defense and Educational Fund, *LDF Files Lawsuit Against the City of Cleveland to Address Discriminatory Water Liens and Shutoffs*, Dec. 18, 2019, <https://www.naacpldf.org/press-release/ldf-files-lawsuit-against-the-city-of-cleveland-to-address-discriminatory-water-liens-and-shutoffs/>

⁶ Id.

⁷ Cody Montag, *Our Nation's Water System are Failing and Black Communities are Bearing the Brunt*, NAACP Legal Defense and Educational Fund, updated Sept. 13, 2022, <https://www.naacpldf.org/naacp-publications/ldf-blog/our-nations-water-systems-are-failing-and-black-communities-are-bearing-the-brunt/>

⁸ NAACP Legal Defense and Educational Fund, *Water/Color: A Study of Race & the Affordability Crisis in American Cities*, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

pressing issue facing the industry every year since at least 2014.⁹ Jurisdictions who cannot afford water and sewer upgrades typically obtain loans to fund large water infrastructure projects, which they repay through increased fees and water bills paid by customers.¹⁰ These increased fees and water bills have a disproportionate impact on Black families ability to afford clean water.¹¹ Moreover, longstanding underinvestment in Black communities has given rise to a lack of access to water resources and outdated water infrastructure.¹² Data shows that low-income areas and communities of color are disproportionately affected by underinvestment in water infrastructure, subsequently exposing them to higher levels of pollutants in both the water and the air.¹³

In Jackson, Mississippi, the recent clean water crisis was caused in large part by its failing, century-old water infrastructure.¹⁴ The failing infrastructure has a disproportionate impact on Black Jackson residents.¹⁵ But this issue is not limited to Mississippi.¹⁶ A 2019 study determined that water shutoffs in cities in the Great Lakes region have been concentrated in Black and Latinx neighborhoods over the last decade.¹⁷ In 2011, Dr. Gasteyer and Dr. Rachel Butts, who are professors at Michigan State University examined the cost of water in Michigan counties and determined that prices were higher in areas with a greater proportion of racial minorities, even after controlling for various factors, including income.¹⁸ In another 2017 study, Michigan State University found that Black and Latinx households have median incomes substantially lower than whites and thus are more likely to have challenges paying costly water bills.¹⁹

⁹ Am. Water Works Ass'n, *Buried No Longer: Confronting America's Water Infrastructure Challenge 10* (2012), http://www.allianceforwaterefficiency.org/uploadedFiles/Resource_Center/Landing_Pages/AWWA-BuriedNoLonger-2012.pdf.

¹⁰ NAACP Legal Defense and Educational Fund, *Water/Color: A Study of Race & the Affordability Crisis in American Cities*, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

¹¹ Id.

¹² Indra Khalsa, *The impact of water infrastructure inequality on marginalized communities*, University of Tennessee at Chattanooga, May 2022, <https://scholar.utc.edu/cgi/viewcontent.cgi?article=1391&context=honors-theses>

¹³ Id.

¹⁴ Cody Montag, *Our Nation's Water System are Failing and Black Communities are Bearing the Brunt*, NAACP Legal Defense and Educational Fund, updated Sept. 13, 2022, <https://www.naacpldf.org/naacp-publications/ldf-blog/our-nations-water-systems-are-failing-and-black-communities-are-bearing-the-brunt/>

¹⁵ Id.

¹⁶ Id.

¹⁷ NAACP Legal Defense and Educational Fund, *Water/Color: A Study of Race & the Affordability Crisis in American Cities*, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

¹⁸ Rachel Butts & Stephen Gasteyer, *More Cost Per Drop: Water Rates, Structural Inequality, and Race in the United States—The Case of Michigan*, 13 *Env'tl. Prac.* 386 (2011)

¹⁹ Elizabeth A. Mack & Sarah Wrase, *A Burgeoning Crisis? A Nationwide Assessment of the Geography of Water Affordability in the United States*, *PLOS One* 12(4), 3 (Jan. 11, 2017), <http://journals.plos.org/plosone/article?id=10.1371/>

Federal funding for water infrastructure peaked in the 1970s and has declined some 77 percent since.²⁰ State funding for water has also greatly decreased over time.²¹ The main funding mechanism used by states to provide funding to municipalities for water quality projects is called the Clean Water State Revolving Fund (CWSRF). CWSRF funds are allocated to states through the Environmental Protection Agency (EPA) to support low-cost financing for a wide range of water quality infrastructure projects. The state program is one of very few mechanisms that provide capital to local municipalities to fund major infrastructure investments in clean water. A 2022 report from the National Resource Defense Council reported that review of a decade of CWSRF funding decisions revealed that smaller municipalities and municipalities with larger populations of color are statistically less likely to receive CWSRF assistance. Indeed in, fiscal Year 2021, the city of Baltimore applied for over \$300 million in CWSRF funds from the state of Maryland.²² Despite the city's history of problems with clean drinking water and being home to a significant portion of the state's Black population, it was not awarded any funds from the state to address the clean water issues.

III. Past Water Regionalization Efforts Have Hurt Black Communities.

Efforts to regionalize water systems in other jurisdictions such as Detroit have hurt Black communities. Before 2013, the Detroit water system was run by the city of Detroit. After Detroit declared bankruptcy in 2013 the Governor of Michigan appointed an emergency manager who assumed control over the decision making of the Detroit Water and Sewer Department (DWSD). In 2014, the state-appointed emergency manager leased the DWSD to the new Great Lakes Water Authority (GLWA).²³ While the City retained nominal ownership of the system, all major decisions are now made by the six-member water authority board, only two of whom are from the City of Detroit. Thus the City lost decision making authority over critical issues such as rate setting and project prioritization, among other key decisions.²⁴ The DWSD system was formally regionalized in 2014 when a 40-year lease agreement was approved by the emergency manager and the GLWA took over operations and management of the system.²⁵ As such, the process of regionalization disenfranchised Detroit residents and removed control of key decision making from the city's majority Black population.

²⁰ Cody Montag, *Our Nation's Water System are Failing and Black Communities are Bearing the Brunt*, NAACP Legal Defense and Educational Fund, updated Sept. 13, 2022, <https://www.naacpldf.org/naacp-publications/ldf-blog/our-nations-water-systems-are-failing-and-black-communities-are-bearing-the-brunt/>

²¹ Id.

²² Id.

²³ Haas Institute at the University of Berkley et al. "Water Equity and Security in Detroit's Water and Sewer District." January 2019, Available at https://haasinstitute.berkeley.edu/sites/default/files/detroit_water_equity_full_report_jan_11_2019.pdf.

²⁴ Id.

²⁵ Id.

The regionalization of Detroit’s utility system also deepened regional water and sewer insecurity and racial inequities.²⁶ Between 2014 and 2019, more than 141,000 households in Detroit had their water service disconnected for non-payment.²⁷ These shutoffs disproportionately, if not almost exclusively, impacted the City’s Black residents, who at the time comprised nearly 80% of the City’s population.²⁸ The United Nations Human Rights Office visited Detroit twice in 2014 after Detroit faced what would eventually become the largest water shutoff program in the history of the United States.²⁹ Immediately after the visit, Catarina de Albuquerque—then-United Nations Special Rapporteur on the human right to safe drinking water and sanitation--decried the shutoffs as “contrary to human rights,” noting the disparate impact upon Black, poor, and vulnerable residents.³⁰

IV. Baltimore Regional Water Governance Task Force is not structured in a way that will protect Baltimore residents’ access to safe, affordable water.

As currently written, SB-880 does not structure the Task Force in a way that will ensure that the Task Force examines the needs of Black residents of Baltimore and addresses the systemic problems that have plagued Baltimore’s water and sewer systems. SB-880 establishes a Task Force to study approaches to water and wastewater governance in the Baltimore region; and generally relating to water supply and wastewater treatment in the Baltimore region. The legislation calls for the Task Force to review the findings of two sections of a report commissioned by the City of Baltimore and Baltimore County entitled “Water/Sewer Services Comprehensive Business Process Review for Baltimore City and Baltimore County.” The makeup of the Task Force consists of one member appointed by the President of the Senate, one member appointed by the Speaker of the House, two members appointed by the Governor, five members appointed by the Mayor of Baltimore, three members appointed by the County Executive of Baltimore County, one member from either Anne Arundel County, Carroll County, Howard County, or Harford County, appointed by the Chair of the Baltimore Metropolitan Council.

²⁶ Haas Institute at the University of Berkeley et al. “Water Equity and Security in Detroit’s Water and Sewer District.” January 2019, Available at https://haasinstitute.berkeley.edu/sites/default/files/detroit_water_equity_full_report_jan_11_2019.pdf; Mesmer K., Aniss M., Mitra R. (2020). Naturalizing environmental justice: How privileged residents make sense of Detroit’s water shutoffs. In Schmitt C. R., Castor T. R., Thomas C. S. (Eds.), *Water, rhetoric, and social justice: A critical confluence* (pp. 149–170). Lexington Books.

²⁷ Coty Montag, *Our Nation’s Water System are Failing and Black Communities are Bearing the Brunt*, NAACP Legal Defense and Educational Fund, updated Sept. 13, 2022, <https://www.naacpldf.org/naacp-publications/ldf-blog/our-nations-water-systems-are-failing-and-black-communities-are-bearing-the-brunt/>

²⁸ Marissa Jackson Sow, *Coming to Terms: Using Contract Theory to Understand the Detroit Water Shutoffs*, Social Science Research Network, Oct. 8, 2020, <https://europepmc.org/article/ppr/ppr242289#FN21>

²⁹ See U.N. Human Rights Office of the High Comm’r, *Detroit: Disconnecting Water from People Who Cannot Pay - an Affront to Human Rights, Say UN Experts*, OHCHR (June 25, 2014).

³⁰ *Id.*

SB-880 does not call for the Task Force to conduct a racial equity impact assessment when reviewing different governance models nor does the bill include any language on public engagement. Furthermore, the legislation does not include requirements or directives to ensure that the Task Force engages directly affected groups. The legislation also does not include provisions to acknowledge and protect recent democratic decision making such as the water affordability laws passed in Baltimore nor changes in the City Charter that prohibit water system privatization. Furthermore, the legislation as currently written requires that the Task Force issue a report in less than a year, which is an inadequate amount of time to comprehensively consider the various issues necessary for a decision that will have an impact on millions of residents.

Below are several amendments that we believe would helpful to address these concerns:

1. Requiring the Task Force to conduct a racial equity impact assessment and a economic equity impact assessment.
2. Including public hearings and a public comment process that is open and accessible.
3. Requiring involvement of key stakeholders including, labor unions in the City and County representing the affected workers, organizations representing affected ratepayers, and directly affected low-income ratepayers.
4. Directing the Task Force to limit its study to public sector solutions that will exclude private for-profit ownership, protect democratic decision-making and the rights of workers and residents, and not undermine or conflict with local water affordability laws and charter protections approved by voters; and
5. Expanding the timeline for the task force to allow at least three full years to conduct the review. There must be time for a proper economic and racial equity analysis regarding the impact of changing the control and ownership of the water department.

These recommendations are discussed in more detail below.

A. Amendment 1: Including a Racial Equity Impact Assessment and an Economic Equity Impact Assessment into the Analysis of the Task Force.

The first amendment to SB-880 that we recommend would require the Task Force to conduct a racial equity impact assessment for each alternative governance structure they consider. As currently structured, the Task Force is not required to assemble information necessary to thoroughly and comprehensively assess the alternative governing models included as examples. Currently, the legislation does not direct the Task Force to look at the impact of changes to the governance of Baltimore's water system on racial equity. SB-880 only directs the Task Force to review the findings of two sections of a single consultant's report. This is only the consultant's report the Task Force is required to review when making recommendations. In that report there is no mention of racial equity or any type of analysis on how different governance structures will

affect Black residents in Baltimore. Baltimore’s Black population is 62% of the City.³¹ The racial equity assessment should examine how different governance structures would impact the water quality and affordability of all residents disaggregated by race, as well as local democratic control of the assets.

Failure to consider the racial impact or equity assessment for over half of the City’s population is extremely troubling and can lead to a discriminatory impact on the Black residents in Baltimore. Water affordability affects Black Baltimore residents disproportionately.³² LDF examined to what extent water bills were unaffordable for Baltimore’s Black population in fiscal years 2019 and 2020.³³ Using a two percent affordability threshold and Black median income, Baltimore water bills exceeded two percent of Black median income in 118 of 200 census tracts.³⁴ Sixty-five percent of the Black population in Baltimore lives in these tracts. Only 19 of the 118 tracts are not majority-Black.³⁵ In 98 tracts, bills will range from two to four percent of Black median income.³⁶ Eighty-three of these tracts are majority-Black. In 15 tracts, 12 of which are majority-Black, households will have to spend four to six percent of their income on water bills.³⁷ In five tracts, water will cost six to eight percent of Black median income. Four of those five tracts are majority-Black (the fifth is 34 percent Black).³⁸

SB-880 also does not currently call for an economic equity impact analysis for the City of Baltimore. The consultant’s report which the Task Force is required to review makes no mention of the economic effect that regionalization would have on the City of Baltimore. Regionalizing Baltimore’s water system would remove \$5.4 billion in capital assets³⁹ from City control—which represents 47% of the city’s total capital assets. There has been no effort to examine the feasibility of any of the alternatives. Failure to study the economic impact a different governance model would have on the City could have devastating consequences for Black residents in a majority Black City. Removing such a large asset from the City could impact the bond ratings, future credit ratings, and have implications on future financial health of the city. We recommend that the Task Force examine the economic impact of regionalization of the water system on both ratepayers and on the city when completing its analysis on different governance structures.

³¹ U.S. Census Bureau, QuickFacts: Baltimore City, Maryland, updated Sept. 2022,

<https://www.census.gov/quickfacts/baltimorecitymaryland>

³² NAACP Legal Defense and Educational Fund, *Water/Color: A Study of Race & the Affordability Crisis in American Cities*, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

³³ Id.

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Baltimore City, MD. “Water Utility Fund Financial Statements, June 30, 2021.” February 15, 2022 at 4; Baltimore City, MD. “Wastewater Utility Fund Financial Statements, June 30, 2021.” February 15, 2022 at 4.

As currently written SB-880 empowers the Task Force to examine two sections of a single consultant's report on this issue. No effort has been made to cost out any of the alternatives examined. We recommend that the Task Force conduct a racial equity and economic equity analysis while compiling their report. We also recommend that the Task Force hire expert consultants to perform the following additional analyses for each alternative governing model scenario:

- Racial equity impact assessment: For the racial equity impact assessment we recommend that an expert consultant include an environmental justice analysis and an examination of other case studies of regional models beyond the limited sampling included in the 2021 review. That analysis should be inclusive of the Detroit/ Great Lakes Regional Water Authority, as there is substantial research available about how Detroit's water regionalization deepened regional racial inequities.
- Economic Equity impact assessment: For the Economic equity impact assessment we recommend the expert consultant include a comprehensive rate analysis; a fiscal impact analysis for the City, County, and the water /sewer utility systems; a legal analysis including: an assessment of legal consequences for local ratepayer and labor protections established by local jurisdictions, for the existing federal consent decree, and for any outstanding lawsuits; and alternatives analysis of options other than a governance change to address the underlying problems, such as how to address staffing shortfalls and equity in allocation of state and federal funding to the water/sewer system

B. Amendment 2: Include Public Hearings and a Public Comment Process that Will Be Open and Accessible

The second amendment to SB-880 we recommend is to include provisions which require that the Task Force conduct public hearings and include a public comment process. Currently, SB-880 does not require the Task Force to do any public engagement for a decision that is likely to affect one of residents' most precious resources: their clean water. We strongly encourage that the bill require the Task Force to conduct public hearings and include a public comment process so that residents can have their voices heard on this extremely important issue.

Specifically, the Task Force should hold seven public hearings each during the development of a draft report and after the issuance of a draft report but before it is finalized. These hearings should be held online and in person at early voting sites located within Baltimore City. We recommend early voting sites because they are equally distributed throughout the city, close to transit centers, and ADA compliant. We also recommend that the bill require the Task Force to establish a public comment process lasting at least 90 days focused on the draft report prior to finalizing the findings and recommendations. To ensure that the Task Force incorporates the feedback it receives through this public engagement, the Task Force should be required to produce written documents (i) summarizing the public hearings, public comments, and other feedback; (ii) addressing how that

information was incorporated into the final report and recommendations; and (iii) explaining the reasons why any public feedback was not incorporated into the final report and recommendations. Finally, the Task Force should be required to publish a draft of its final findings and recommendations for public review on the websites of the City and County.

C. Amendment 3: Require stakeholder involvement of affected parties, including labor unions in the City and County representing the affected workers, organizations representing affected ratepayers, and directly-affected low-income ratepayers.

Third, we recommend that the language of the legislation be amended to require that the Task Force include members who can voice the views of directly-affected parties, particularly low-income ratepayers. Currently, there is no requirement that any of the Task Force members be or represent ratepayers. And there is no voice on the Task Force for union workers who work at Baltimore's water system and will be directly impacted by regionalization. Having a seat at the table helps these groups have their voices heard and have a direct vote on a possible new governance structure that will impact their daily lives.

The Task Force should include directly affected parties. One in five Baltimore residents live in poverty⁴⁰ and City and County DPW workers are union members.⁴¹ We believe that having directly- impacted people like low-income ratepayers, local community organizations which represent rate payers, and representatives of union workers on the Task Force will create the best result for low-income rate payers and affected workers in the City and county. Specifically, LDF is calling for one representative from local community organizations representing low-income water ratepayers in the City and one low-income water ratepayer be included as members of the Task Force . This would create two new positions on the Task Force. Additionally, we recommend that of the five members appointed by the Mayor of Baltimore City, the Mayor should be required to include a representative of the labor union representing the City DPW workforce. We also recommend that, of the three members appointed by the County Executive of Baltimore County, one should represent the labor union representing the County water/sewer department workforce. These critical groups should have a seat at the table on the Task Force to ensure that those most vulnerable to changes in a governance structure will have a direct voice in considerations which will impact their future.

D. Amendment 4: Require the Task Force to limit its consideration of alternative structures to public sector solutions which exclude private for-profit ownership, protect democratic decision-making and the rights of workers and residents, and do

⁴⁰ U.S. Census Bureau, QuickFacts: Baltimore City, Maryland, updated Sept. 2022, <https://www.census.gov/quickfacts/baltimorecitymaryland>

⁴¹ U.S. Bureau of Labor Statistics, *Union Members in Maryland — 2022*, updated Feb. 6, 2023, https://www.bls.gov/regions/mid-atlantic/news-release/unionmembership_maryland.htm

not undermine or conflict with local water affordability laws and charter protections approved by voters.

Fourth, we recommend that SB-880 be amended to ensure that the Task Force accounts for and respects Baltimore City residents' prior decisions regarding the governance of its water system. Baltimore City residents have recently taken several actions that express policy choices about their water system that should control the recommendations of the Task Force. In 2018, Baltimore residents voted overwhelmingly for Ballot Question E, which amended the City Charter to prohibit private, for-profit ownership, operation or management of the water supply and wastewater system.⁴² Similarly, on November 18, 2019, the Baltimore City Council passed the Water Accountability and Equity Act ("WAEA").⁴³ The passage of the WAEA is the culmination of years of advocacy by the Baltimore Right to Water Coalition, of which LDF is a member. The WAEA (a) created a new water affordability program for households at or below 200% of the Federal Poverty Guidelines; (b) extended program eligibility to tenants; (c) established a new Office of Water-Customer Advocacy and Appeals within DPW; and (d) delineated a formal dispute resolution process for water and wastewater billing disputes and disputes concerning the new water affordability program.⁴⁴

As currently drafted, the bill does not require the Task Force to incorporate these democratically expressed policy preferences into its analysis. Nor does the consultants' report that the Task Force is compelled to review mention either the affordability programs that residents and community groups have long fought for or Baltimore City's prohibition on water system privatization. Affordability and equity must be at the forefront of any Task Force report and recommendations. The work of the Task Force should not undermine recently enacted measures that Baltimore voters and leaders have worked to achieve.

E. Amendment 5: Expand the Timeline for the Task Force to complete its efforts.

Finally, SB-880 should be amended to provide the Task Force additional time to complete its work. The legislation as currently written calls for the Task Force to issue a report within eight months of the Task Force being assembled. As noted above, the Task Force must be able to assess and address the impact of a different governance structure on racial equity, water affordability, fiscal health, and environmental concerns. The current language of the legislation only provides eight

⁴² Thomas Hanna, *Baltimore Joins Global Movement, Becoming the First Major U.S. City to Ban Water Privatization*, In These Times, Nov. 12, 2018, <https://inthesetimes.com/article/baltimore-global-movement-water-privatization-2018>

⁴³ Emily Poor, *Water Accountability and Equity Act – A Summary*, Maryland ProBono Resource Center, Dec. 2019, <https://probonomd.org/water-accountability-and-equity-act-a-summary/>

⁴⁴ Id.

months for the Task Force to develop its conclusions.⁴⁵ There must be time for a proper economic and racial equity analysis regarding the impact of changing the control and ownership of the water department.

We recommend that the bill extend the time for the Task Force to report its preliminary draft findings and recommendations to the Mayor of Baltimore City, the County Executive of Baltimore County, the Governor, and the General Assembly to June 30, 2025. We also recommend that the Task Force have until June 30, 2027, to issue its final report. This extended timeline will provide the Task Force time to have public hearings and a public comment period at both the preliminary drafting stage and the final drafting stage. It will also assure the public that the process was not rushed and there was sufficient time for the public to engage on this issue.

IV. Conclusion

Water is life: it is a human right and is essential for our health, for our food to grow, for our communities to function and thrive.⁴⁶ Baltimore is already working to address a water affordability crisis which has had a disproportionate and detrimental impact on the City's Black neighborhoods.⁴⁷ The passage of the WAEA has begun to help Baltimore City residents with water affordability. Hastily rushing to establish a new governance model without proper public engagement and without doing critical analyses on how a new model will affect Black residents and low-income ratepayers risks undermining this progress and creating even greater disparities. We strongly encourage the proposed amendments to be adopted into SB-880.

Thank you for the opportunity to testify. If you have any questions, please contact David Wheaton, Economic Justice Policy Fellow, at dwheaton@naacpldf.org, or Amalea Smirniotopoulos, Senior Policy Counsel, at asmirniotopoulos@naacpldf.org.

Sincerely,

David Wheaton

Lisa Cylar Barrett, Director of Policy and Director of the Washington D.C. Office
David Wheaton, Economic Justice Policy Fellow
Amalea Smirniotopoulos, Senior Policy Counsel
NAACP Legal Defense and Educational Fund, Inc. (LDF)

⁴⁵ Baltimore City, MD. "Water Utility Fund Financial Statements, June 30, 2021." February 15, 2022 at 4; Baltimore City, MD. "Wastewater Utility Fund Financial Statements, June 30, 2021." February 15, 2022 at 4.

⁴⁶ NAACP Legal Defense and Educational Fund, *Water/Color: A Study of Race & the Affordability Crisis in American Cities*, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

⁴⁷ Id.

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Baltimore Water Regionalization

Baltimore Regional Water Governance Task Force

HB0843 / SB0880

RECOMMENDED AMENDMENTS

We suggest the following amendments:

Amendment 1: Require stakeholder involvement of affected parties, including labor unions in the City and County representing the affected workers, organizations representing affected ratepayers, and directly affected low-income ratepayers.

(b) (1) The Task Force consists of the following members:

- (i) one member of the Senate of Maryland, appointed by the President of the Senate;
- (ii) one member of the House of Delegates, appointed by the Speaker of the House;
- (iii) two members appointed by the Governor;
- (iv) **One representative from local community organizations representing low-income water ratepayers in the City; and**

- **One low-income water ratepayer in the City;**

(v) five members appointed by the Mayor of Baltimore City **and that shall include one representative of the labor union representing the City water/sewer department workforce.**

(vi) three members appointed by the County Executive of Baltimore County **and that shall include one representative of the labor union representing the County water/sewer department workforce;** and

(vii) one member from either Anne Arundel County, Carroll County, Howard County, or Harford County, appointed by the Chair of the Baltimore Metropolitan Council.

Amendment 2: Include a racial equity impact assessment and economic equity impact assessment.

(g) The Task Force shall:

...

- (5) **conduct a racial equity impact assessment for each alternative governance structure;**

(6) conduct an economic equity impact assessment for each alternative governance structure;

(7) recommend the governance model best suited for water and wastewater systems in the Baltimore region and the necessary legislation and funding to establish the recommended model.

Amendment 3: Direct the Task Force to limit their study to public sector solutions that will (1) exclude private for-profit ownership, operation or management of the systems as prohibited by the Baltimore City Charter, (2) protect democratic decision-making and the rights of workers and residents, and (3) not undermine or conflict with local water affordability laws and charter protections approved by voters.

(i) In developing the recommendations and report required under this section, the Task Force shall consider only alternative governance models that adhere to existing ratepayer and labor protections approved by local jurisdictions, including but not limited to:

(1) Baltimore City Ballot Question E of 2018, which was approved by voters, to amend the City Charter to prohibit private, for-profit ownership, operation or management of the water supply and wastewater system;

(2) The Water Accountability and Equity Act of Baltimore City, which established a low-income water affordability program; water shutoff protections for vulnerable households; a dispute resolution process; rights of tenants to receive their bills, access assistance, and dispute their bills; and an office of Customer Advocacy and Appeals;

(3) Collective bargaining contracts, worker pensions, and worker benefits for workers in the City and the County;

Amendment 4: Expand the timeline for the task force to allow sufficient time to conduct the review and solicit public feedback.

(k) On or before **January June 30, 2024 2025**, the Task Force shall report its **draft** findings and recommendations to the Mayor of Baltimore City, the County Executive of Baltimore County, the Governor, and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(l) On or before June 30, 2027, the Task Force shall report its final findings and recommendations to the Mayor of Baltimore City, the County Executive of Baltimore County, the Governor, and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two

Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through June 30, ~~2024~~ ~~2027~~, and, at the end of June 30, ~~2024~~ ~~2027~~, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Amendment 5: Require robust public input and engagement.

(j) In developing the recommendations and report required under this section, the Task Force shall provide opportunities for public input and shall:

(1) publish a draft of its findings and recommendations for public review on the websites of the City and County;

(2) hold a series of public hearings including:

(i) seven public hearings with one at each of the locations identified in subsection iii prior to the development of a draft report;

(ii) seven public hearings with one at each of the locations identified in subsection iii after the issuance of a draft report;

(iii) with hearings held online and in person at different times of day located at:

1. seven early voting sites located within the City,

(3) provide a public comment period of at least 90 days on the draft report prior to finalizing the findings and recommendations;

(1) assess the public input in the final report by

(i) summarizing the public hearings, public comments, and other feedback;

(ii) addressing how that information was incorporated into the final report and recommendations; and

(iii) explaining the reasons why any public feedback was not incorporated into the final report and recommendations; and

(2) advertise all Task Force meetings on the websites of all affected jurisdictions and the Maryland Department of Environment, and on at least one social media account, and hold meetings open to the public online and in-person, as this Task Force will be subject to Maryland Public Meetings Act.

SB 880 - Baltimore Regional Water Governance Task

Uploaded by: Donna Edwards

Position: FWA



MARYLAND STATE & D.C. AFL-CIO

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Secretary-Treasurer

Gerald W. Jackson

**SB 880 - Baltimore Regional Water Governance Task Force
Senate Education, Energy, and the Environment Committee
March 15, 2023**

SUPPORT WITH AMENDMENT

**Donna S. Edwards
President**

Maryland State and DC AFL-CIO

Chairman and members of the Committee, thank you for the opportunity to submit testimony in support of SB 880 with amendments. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

Access to clean, safe, and affordable drinking water is a human right recognized by the United Nations.¹ Residents of the greater Baltimore region have worked hard to protect their water infrastructure from privatization and organize for lower bills.

This task force will issue recommendations that impact hundreds of thousands of families and thousands of workers employed by the water and wastewater systems in and around the city. It is essential that workers directly have a voice on this task force in order to provide input and feedback on decisions that might impact them.

We encourage the committee to issue a favorable report with the following amendment.

Add the following language to Page 3, Line 9, moving all subsequent language down:

(vii) two members representing water and wastewater workers, appointed by the Maryland State & DC AFL-CIO.

¹ United Nations General Assembly Resolution, "A/RES/64/292." July 2010.

SB 880 - Testimony - 3.15.23.pdf

Uploaded by: Donna Edwards

Position: FWA



METROPOLITAN BALTIMORE COUNCIL

AFL-CIO Unions

SB 880 - Baltimore Regional Water Governance Task Force Education, Energy, & the Environment Committee March 15, 2023

Support with Amendments

To: Hon. Brian Feldman, Chair & members of the Senate Education, Energy, and the Environment Committee

From: Courtney Jenkins, President, Metropolitan Baltimore AFL-CIO

Chairman and members of the Education, Energy, and the Environment committee, thank you for the opportunity to present testimony in **support with amendments** for *SB 880-Baltimore Regional Water Governance Task Force*. My name is Courtney Jenkins, President of the Metropolitan Baltimore Council AFL-CIO—our central labor council coalition represents over 100 affiliated local unions and close to 80,000 proud union members in Anne Arundel, Baltimore, Carroll, Cecil, Harford, and Howard counties, and Baltimore City.

The Metropolitan Baltimore AFL-CIO supports a bill that creates a task force to study our regional water and wastewater governance. To ensure that all stakeholders are included in the task force, representation from employee organizations within organized labor that represent workers of the system is imperative; and can only be achieved by amending this legislation to include representation from organized labor.

The task force is charged with assessing how different regional approaches could potentially improve elements of the system including operations and employee recruitment, retention, and training.

In the 2021 Water/Sewer Services Comprehensive Business Review, the executive summary report notes opportunities to strengthen the existing organizational structure. All characteristics including staffing, succession planning, knowledge capture, and salary study impact the dedicated and knowledgeable workers within the system. The report goes on to note that when leadership was surveyed they responded by prioritizing “Modification as to how the HR, procurement and training support functions work with operations staff ; Increased staffing and opportunities for employees to grow in their careers; Facilitated strategic planning sessions



METROPOLITAN BALTIMORE COUNCIL

AFL-CIO Unions

at the department level; and Adjustments to salaries to make them competitive with that of other utilities and private firms.”

These recommendations and the work of the task force make it clear that the voice of organized labor is justified and necessary.

Further, the task force is charged with analyzing the fiscal implications of alternative governance structures including areas related to staffing and pension liabilities. These charges directly impact the working people that help maintain and operate the water and wastewater system. As much of the task force’s work will rely upon the knowledge and expertise of water and wastewater— we view the inclusion of organized labor’s representation within the group as both appropriate and necessary for a fully comprehensive report.

For these reasons, **we support SB 880 with the following amendment:**

Add the following language to Page 3, Line 8, moving all subsequent language down:

(vii) two members representing water and wastewater workers, appointed by the Maryland State & DC AFL-CIO.

Respectfully,

Courtney L. Jenkins

Courtney L. Jenkins, President

J.Ripley testimony SB880 - Baltimore Regional Wate

Uploaded by: John Ripley

Position: FWA



BALTIMORE COUNTY
FEDERATION OF
PUBLIC EMPLOYEES
AFT / AFL - CIO / BCFPE Local #4883

John Ripley
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**Written Testimony Submitted to the
Maryland Senate - Education, Energy, and the Environment Committee
From the Baltimore County Federation of Public Employees, AFT Local 4883
SB 880– Baltimore Regional Water Governance Taskforce
March 14, 2023**

SB880 - Favorable-with-amendments

Good afternoon Chair Feldman and members of the Senate Education, Energy, and Environment Committee. My name is John Ripley, and I am the President of the Baltimore County Federation of Public Employees representing over 1500 county employees, including hundreds of employees working with the county's water services. I am also on the Executive Board of AFT Maryland and the Metropolitan Baltimore Council of AFL-CIO. We call for a favorable-with-amendments report for SB 880, the bill that would create a taskforce to study the potential to create a regional water utility for Baltimore City and County. We have appended the proposed amendments to our written testimony for your review.

Our amendments– drafted in concert with our coalition partners in Food and Water Watch, the NAACP Legal Defense Fund, and other environmental and social justice organizations– relate largely to three major fields: taskforce membership to ensure employee and community voices are included in these vital discussions, insurances that the water utility system will not be privatized and the protections the people of Baltimore have placed to safeguard their water system are respected, and adjusting the timeline of a report due back so that these major, substantial issues can be studied with the depth and breadth necessary for an undertaking of this sort.

Again, BCFPE represents hundreds of county workers who work in the water and wastewater systems for Baltimore county. These members not only have particular, valuable, front-line insights on the strengths and weaknesses of the current system, but also have a right to participate in larger conversations over decisions that may impact their work. Their representation on this taskforce is a must.

Members of the committee, the proposed work of this taskforce must not be understated: the undertaking of a monumental task to re-envision how water, a fundamental human right, if fairly and equitably distributed to residents in both our county and Baltimore City, must not be taken lightly. This task must have ample output from the community members most impacted by decisions we are making, and include voices of those who are engaged in the day-to-day operations of the delivery and upkeep of our city's water system. Our amendments to the taskforce membership portion of the bill call for the mayor and the county executive to appoint at least one representative each from the union of county and city employees currently working for the water systems. In addition, the amendment calls for the Governor to appoint members to the taskforce that represent low-income water rate payers, as water affordability issues have been at the forefront of conversations regarding City and County water over the past decade.

Finally, we call for a rethinking of the deadline for the taskforce to submit its report and recommendations to the general assembly; nine months is simply just not enough time to effectively study this issue, consider the potential outcomes, and hear concerns from impacted members of the public. While there has been a study published in 2021, commissioned by both the city and the county, that study was a general business process review. If the charge of this taskforce is to look specifically at how the current water system may be transformed into another alternative regional water system, more time needs be devoted to looking at the costs and means by which the current systems can be transferred to a new regional entity.

We ask that the committee adopt these amendments, and issue a favorable-with-amendments report to SB 880.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "John Ripley", with a long horizontal flourish extending to the right.

President John Ripley

Baltimore County Federation of Public Employees Local #4883

AFT Maryland / Metropolitan Baltimore Council AFL-CIO - CLC

SB0880_Food_and_Water_Watch_FWA.pdf

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SB 880 - Baltimore Regional Water Governance Task Force

March 15, 2023

Education, Energy and the Environment Committee

FAVORABLE WITH AMENDMENTS

On behalf of Food & Water Watch and our 44,000 supporters in Maryland, **we recommend you issue a favorable with amendment report on SB 880 and adopt the Baltimore Right to Water Coalition's amendments.** These amendments seek to protect the ratepayers and workers of the water and sewer utility.

These amendments have five goals:

1. Include labor and low-income ratepayer representation on the Task Force and require that Task Force members be either ratepayers or representatives of ratepayers;
2. Require racial equity and economic equity impact assessments;
3. Preserve existing labor and ratepayer protections established by local jurisdictions;
4. Require public input; and
5. Provide adequate time for due diligence.

SB 880 establishes a Task Force to recommend a new governance model for the Baltimore water and sewer utility. Given that the intention is to guide state legislation to enact the recommended changes as early as next year, we strongly believe that there must be more public input into this process and more guardrails to protect the public from unintended harm.

Food & Water Watch was a founding member of the Baltimore Right to Water Coalition, and since 2016, we have worked with organizations across the City and our City's elected officials, under the leadership of Mayor Brandon Scott, to help codify and implement several water consumer protections for residents of Baltimore City. While our aging water and sewer system does not lack for challenges, these consumer protections are among the strongest in the nation, and any recommended change in utility governance must ensure their preservation.

With this testimony, I have included:

- a detailed description outlining the reasons for each amendment;
- a list of groups in support of the amendments;
- a one-page summary of the amendments; and
- a copy of the proposed amendments.

Thank you for your time and consideration,

Mary Grant
Public Water for All Campaign Director
Food & Water Watch

Detailed Background for the Proposed Amendments

(1) Low-income ratepayer and labor stakeholder participation on the taskforce.

Workers and low-income ratepayers deserve to have a seat at the table and a voice in the future of our water and sewer utility. Any change in utility governance would disproportionately impact them. Workers could see changes to their jobs, their benefits, and their working conditions, and low-income residents in the City would be disparately impacted by any resulting rate increase, new rate structures, or loss of local ratepayer protections and assistance programs.

We request that the Governor's appointees to the Task Force include (1) a representative from a local community organization representing low-income water ratepayers in the City and (2) a low-income water ratepayer in the City. We further urge the Committee to explore providing a stipend for this low-income community member to participate on the Task Force. We also request that the Mayor and the County Executive each appoint at least one representative from the labor unions representing the workers at the utility in their respective jurisdictions.

Decisions about our water and sewer utility should be made by people impacted by those decisions. Therefore, we request that the Task Force members be either directly served by the utility or represent ratepayers in their respective jurisdictions. Outside subject matter experts are better suited to serve as consultants instead of decision makers.

(2) Racial equity and economic equity impact assessments.

It is essential that this Task Force incorporate racial and economic equity into its recommendation and findings.

A change in governance of the water and sewer utility would have a profound impact on Baltimore City, one of the nation's largest majority Black cities. Baltimore City owns the water and sewer systems, and the water and sewer systems are the City's biggest assets. In 2021, the water and wastewater systems had combined total capital asset value of \$5.4 billion — more than \$2 billion more than the capital asset value of the rest of the entire City government (\$3.2 billion).

A regional authority established by state statute would take away decision making from the City's majority Black elected officials and transfer control to a new board appointed by likely by a combination of the Mayor, the County Executive, and other state or county officials. Because the board members are unelected officials, Baltimore City's majority Black population would lose ballot box accountability over the people who make decisions about rates and services.

If a new water authority is established, a key decision will be whether Baltimore City is compensated for the loss of these assets, and if so, how will the new authority recover that cost. If the City is not compensated for the loss of assets, the transfer could cause substantial harm to the City and its majority Black population. If the new authority does pay for the assets, then it must recover that cost through rate hikes on customers, deepening the existing water affordability crisis that disproportionately harms Black households. A study from utility affordability expert Roger Colton found that water bills are already unaffordable for low-income households in every part of the City.

Water and sewer regionalization is part of a broader national trend that disparately impacts majority Black cities and raises serious concerns for racial and economic equity. For example, there is substantial academic research about how the regionalization of Detroit’s water and sewer utility system and resulting unfair cost allocations deepened regional water and sewer insecurity and racial inequities. Hundreds of thousands of Detroit residents have had their water shutoff since the forced regionalization of their water and sewer system by a state-appointed emergency manager, disproportionately harming Black residents.¹

(3) Guardrails to preserve ratepayer and worker protections established under local laws.

Because a transfer to a governing entity established by state statute could preempt local laws and protections, the Task Force must ensure that any new governance structure will preserve local labor and ratepayer protections. We recommend that the Task Force be limited to study only alternative governance models that adhere to ratepayer and labor protections approved by local jurisdictions, including:

- Baltimore City Ballot Question E of 2018, which was approved by voters, to amend the City Charter to prohibit private, for-profit ownership, operation or management of the water supply and wastewater system;
- The Water Accountability and Equity Act of Baltimore City, which established a low-income water affordability program; water shutoff protections for vulnerable households; a dispute resolution process; rights of tenants to receive their bills, access assistance, and dispute their bills; and an office of Customer Advocacy and Appeals;
- Collective bargaining contracts, worker pensions, and benefits for workers in the City and the County; and
- Baltimore City’s Sewage Onsite Support Program and Expedited Reimbursement Program.

The loss of these protections would cause substantial harm to the residents and workers.

(4) Robust public input.

The public deserves a say in the future of our water and sewer system. Notably, Baltimore City residents have overwhelmingly declared the water and sewer system to be an inalienable asset of the City, when more than three-quarters of voters approved Ballot Question E in 2018. State legislation to establish a regional authority could circumvent the City Charter, which would effectively disenfranchise the City’s majority Black population from the decision about their water and sewer system. A robust public input process is necessary to provide adequate opportunity for public engagement and feedback. The legislation currently requires no public hearings, public input, public comments, or any public participation at all.

As a solution, we recommend that the Task Force hold public hearings prior to drafting a recommendation and then another after releasing a draft recommendation. These public hearings should be located within the water and sewer service areas at sites convenient for residents to reach on public transportation. We recommend holding the hearings online and in person at each of the seven early voting centers within the City, as effort has already gone into determining that those locations are accessible to residents across the City.

We also recommend that the draft recommendation be open for public comment and feedback, and that the Task Force explain how it has incorporated the feedback it received from the public when it reports its final recommendation. Further, all meetings of the Task Force should be explicitly open to the public in person and virtually and be held pursuant to the Maryland Open Meetings Act.

(5) A longer study time.

Under this emergency legislation, the Baltimore Regional Water Governance Task Force must recommend a new governance model for the Baltimore water and sewer system by January 30, 2024. That's less than a year. This is far too hasty for a meaningful analysis of our 200-year-old system. We propose an extended timeline that provides time for a draft recommendation to be released to the public for comment and feedback.

Much more due diligence is necessary to protect everyone served by the water and sewer system. Currently, the Task Force will look at one section of a single consultant's report on this issue. This provides insufficient information to properly assess alternative governing models. While the 2021 review provides several case studies, which can be useful, case studies should not be generalized because water and sewer systems have high asset specificity.

For example, many Maryland state legislators have a positive view of WSSC, but this system was created from the beginning as a regional system and never underwent a major structural change. Inequities can arise in the very process of governance change. More, it is important to point out two other very important differences between the systems: (1) system age, as Baltimore's system is 200 years old, and WSSC is half that; and (2) income and poverty. The financial situation of people served by WSSC is on average very different from those served by Baltimore City. The median income in Baltimore City is \$54k; it is \$117k in Montgomery County and \$91k in Prince George's County. The poverty rate in Baltimore City (20.3%) is about twice that of WSSC's service area. A change in governance will not alter the underlying reality of poverty and financial hardship facing many Baltimore City residents, and rather, that underlying reality means that Baltimore City residents, particularly its low-income Black families and seniors, are particularly vulnerable to a governance change that seizes control of their utility away from locally elected officials.

No effort has been made to estimate how any of the alternative structures will impact water rates, or to study the racial and economic equity impacts of changes in governance. The legislation would put the onus of additional analyses on an all-volunteer Task Force to complete within a year. This is unreasonable. At a minimum, adequate due diligence would merit the following studies:

- Comprehensive rate analyses under each alternative governance scenario;
- Fiscal impact analyses for the City, County, the stormwater systems of City and County, and the water and sewer utility systems;
- Racial equity impact assessments;
- Economic equity impact assessments;
- Environmental impact and environmental justice analyses;
- Legal analyses, including an assessment of legal consequences for local ratepayer and labor protections established by local jurisdictions, for the existing federal consent decrees, and for any outstanding lawsuits;

- Examination of other case studies of regional models beyond the limited sampling included in the 2021 review, and inclusive of Detroit/ Great Lakes Regional Water Authority and interviews with the We the People of Detroit research collective; and
- Alternatives analysis of options other than a governance change to address the underlying problems, such as how to address staffing shortfalls and equity in allocation of state and federal funding to the water and sewer system.

Any move to a new governance structure in absence of these analyses would render any Task Force recommendation incomplete and inadequate to the design of future legislation.

The future of our water and sewer system is far too important for a rush to judgement without any opportunity for public participation and engagement. Our water and sewer utility provide services that are essential for public health and wellbeing, and while we support efforts to improve its functioning and expand productive collaboration among various jurisdictions, we should not rush into a major change without sufficient review, stakeholder engagement, and opportunity for public participation and input.

Our water and sewer system faces many difficulties and challenges, but the hard truth is that there will be no quick fix or silver bullet. It can be difficult to see how a change in governance could possibly redress the decades of federal and state disinvestment in our aging system. This process must proceed with caution and care, rooted in the region's complex histories of redlining and disinvestment in Black communities and reaching for an affirmative goal of water justice.

Again, I urge you to incorporate the proposed amendments from the Baltimore Right to Water Coalition before allowing SB 880 to move forward.

¹ For example, see: Haas Institute at the University of Berkeley et al. "Water Equity and Security in Detroit's Water and Sewer District." January 2019, Available at https://haasinstitute.berkeley.edu/sites/default/files/detroit_water_equity_full_report_jan_11_2019.pdf; Mesmer K., Aniss M., Mitra R. (2020). Naturalizing environmental justice: How privileged residents make sense of Detroit's water shutoffs. In Schmitt C. R., Castor T. R., Thomas C. S. (Eds.), *Water, rhetoric, and social justice: A critical confluence* (pp. 149–170). Lexington Books.

Groups in Support of the Coalition Amendments to SB 880
March 13, 2023

The undersigned organizations support the Baltimore Right to Water Coalition's amendments to the Baltimore Regional Water Governance Task Force (HB843/SB880). The five amendments seek to protect ratepayers and workers as the Task Force guides future state legislation:

Amendment 1. Low-Income Ratepayer and Labor Representation on the Taskforce. This amendment would require (1) the County Executive and Mayor to each appoint one labor representative, (2) the Governor's appointees to include one low-income ratepayer and one representative from a local community organization representing low-income ratepayers; and (3) all Task Force members to be either ratepayers or representatives of ratepayers.

Amendment 2. Racial and Economic Equity. This amendment would require racial equity and economic equity impact assessments of each alternative governing structures.

Amendment 3: Low-Income Ratepayer and Labor Protections. This amendment would direct the Task Force to limit their recommendation to governing models that adhere to local ratepayer and worker protections, including (1) Ballot Question E of 2018 that banned private for-profit ownership, operation or management of the systems, (2) the Water Accountability and Equity Act, which established a local water affordability program and other ratepayer protections, (3) collective bargaining rights of workers, and (4) the sewage backup reimbursement programs.

Amendment 4: Public Input. This amendment would require public input at public hearings throughout the City and County. It would require a public comment period on a draft report.

Amendment 5: Timeline. This amendment would extend the timeline from January 2024 to June 2027 to allow sufficient time for due-diligence and public input and comments.

Endorsing Groups

1199SEIU United Healthcare Workers East
AFT Maryland
Baltimore County Federation of Public Employees
Baltimore Green Space
Blue Water Baltimore
Clean Water Action
Food & Water Watch
Friend of Clean Water Baltimore
Maryland Legislative Coalition
Maryland Volunteer Lawyers Service
NAACP Legal Defense and Educational Fund
Progressive Maryland
SANIPLAN
Unitarian Universalist Legislative Ministry of Maryland
Waterkeepers Chesapeake

COALITION AMENDMENTS TO HB 843 | SB 880

BALTIMORE REGIONAL WATER GOVERNANCE TASK FORCE

AMENDMENT 1. LOW-INCOME RATEPAYER AND LABOR REPRESENTATION ON THE TASKFORCE.

This amendment would require (1) the County Executive and Mayor to each appoint one labor representative, (2) the Governor's appointees to include one low-income ratepayer and one representative from a local community organization representing low-income ratepayers; and (3) all Task Force members to be either ratepayers or representatives of ratepayers.

AMENDMENT 2. RACIAL AND ECONOMIC EQUITY.

This amendment would require racial equity and economic equity impact assessments of each alternative governing structures.

AMENDMENT 3: LOW-INCOME RATEPAYER AND LABOR PROTECTIONS.

This amendment would direct the Task Force to limit their recommendation to governing models that adhere to local ratepayer and worker protections, including (1) Ballot Question E of 2018 that banned private for-profit ownership, operation or management of the systems, (2) the Water Accountability and Equity Act, which established a local water affordability program and other ratepayer protections, (3) collective bargaining

rights of workers, and (4) the sewage backup reimbursement programs.

AMENDMENT 4: PUBLIC INPUT.

This amendment would require public input at public hearings throughout the City and County. It would require a public comment period on a draft report.

AMENDMENT 5: TIMELINE.

This amendment would extend the timeline from January 2024 to June 2027 to allow sufficient time to conduct the review and due-diligence and solicit public feedback.

Amendment 1. Adjusting the membership of the taskforce

Page 3, line 1

After "Governor"

add

"INCLUDING: 1. ONE REPRESENTATIVE FROM A LOCAL COMMUNITY ORGANIZATION REPRESENTING LOW-INCOME WATER RATEPAYERS IN THE CITY, AND 2. ONE LOW-INCOME WATER RATEPAYER IN THE CITY."

Page 3, line 2

After "Mayor of Baltimore City"

add

“, INCLUDING AT LEAST ONE MEMBER FROM CITY UNION OF BALTIMORE, AFT LOCAL 800, REPRESENTING EMPLOYEES WORKING IN THE CITY’S WATER/WASTEWATER FACILITIES

Page 3, line 4

After "County"

add

“, INCLUDING AT LEAST ONE MEMBER FROM THE BALTIMORE COUNTY FEDERATION OF PUBLIC EMPLOYEES, AFT LOCAL 4883, REPRESENTING COUNTY EMPLOYEES WORKING IN THE COUNTY’S WATER DEPARTMENT”

Page 3, line 12

Strike "or"

and add

"4. UTILITY SERVICE AFFORDABILITY, INCLUDING PERSONAL KNOWLEDGE; 5. RACIAL EQUITY IMPACT ASSESSMENTS; 6. COLLECTIVE BARGAINING AGREEMENTS; 7. SEWAGE BACKUPS, INCLUDING PERSONAL KNOWLEDGE; 8. STORMWATER; 9. INTEGRATED PLANNING; 10. CLIMATE RESILIENCY; 11. SOURCE WATER PROTECTION; OR 12. PUBLIC HEALTH; AND"

Page 3, line 13

After "(ii)"

add

"EITHER 1. RECEIVE WATER AND WASTEWATER SERVICE FROM THE WATER AND WASTEWATER UTILITY, OR 2."

Amendment 2. Including racial equity and economic equity impact assessments

Page 5, line 5

Strike “and”

and add

“(5) CONDUCT A RACIAL EQUITY IMPACT ASSESSMENT AND AN ECONOMIC EQUITY IMPACT ASSESSMENT FOR EACH ALTERNATIVE GOVERNANCE STRUCTURE; AND”

Page 5, line 6

Strike “(5)”

and add

“(6)”

Amendment 3: Directing the Task Force to limit their study to public sector solutions that will (1) exclude private for-profit ownership, operation or management of the systems as prohibited by the Baltimore City Charter, (2) protect democratic decision-making and the rights of workers and residents, and (3) not undermine or conflict with local water affordability laws and charter protections approved by voters.

Page 5, line 10

After “Task Force shall”

Add

“(1) CONSIDER ONLY ALTERNATIVE GOVERNANCE MODELS THAT ADHERE TO RATEPAYER AND LABOR PROTECTIONS ESTABLISHED BY LOCAL JURISDICTIONS, INCLUDING: (i) BALTIMORE CITY BALLOT QUESTION E OF 2018, WHICH WAS APPROVED BY VOTERS, TO AMEND THE CITY CHARTER TO PROHIBIT PRIVATE, FOR-PROFIT OWNERSHIP, OPERATION OR MANAGEMENT OF THE WATER SUPPLY AND WASTEWATER SYSTEM; (ii) THE WATER ACCOUNTABILITY AND EQUITY ACT OF BALTIMORE CITY, WHICH ESTABLISHED: A LOW-INCOME WATER AFFORDABILITY PROGRAM; WATER SHUTOFF PROTECTIONS FOR VULNERABLE HOUSEHOLDS; A DISPUTE RESOLUTION PROCESS; RIGHTS OF TENANTS TO RECEIVE THEIR BILLS, ACCESS ASSISTANCE, AND DISPUTE RESOLUTION; AND AN OFFICE OF CUSTOMER ADVOCACY AND APPEALS; (iii) COLLECTIVE BARGAINING AGREEMENTS, WORKER PENSIONS, AND BENEFITS FOR WORKERS IN THE CITY AND THE COUNTY; AND (iv) BALTIMORE CITY’S SEWAGE ONSITE SUPPORT PROGRAM AND EXPEDITED REIMBURSEMENT PROGRAM; ”

Page 5, line 10

Before “consult with”

add

“(2)”

Amendment 4: Requiring public input.

Page 5, line 11

After “Service”

strike “:”

and add

“; AND (3) PROVIDE OPPORTUNITIES FOR PUBLIC INPUT BY: (1) PUBLISHING A DRAFT OF ITS FINDINGS AND RECOMMENDATIONS FOR PUBLIC REVIEW ON THE WEBSITES OF THE CITY AND COUNTY; (2) HOLDING PUBLIC HEARINGS: (I) PRIOR TO THE DEVELOPMENT OF A DRAFT REPORT; (II) AFTER THE ISSUANCE OF A DRAFT REPORT; (III) WITH HEARINGS HELD ONLINE AND IN PERSON AT DIFFERENT TIMES OF DAY AND LOCATED AT: 1. THE SEVEN EARLY VOTING SITES WITHIN THE CITY; 2. FIVE LOCATIONS IN THE COUNTY AT SITES WITHIN THE WATER SYSTEM SERVICE AREA THAT ARE CONVENIENT FOR PUBLIC TRANSPORTATION; AND 3. ONE LOCATION IN EACH OF THE FOUR OTHER JURISDICTIONS OF THE AFFECTED COUNTIES. (3) PROVIDING A PUBLIC COMMENT PERIOD OF AT LEAST 90 DAYS ON THE DRAFT REPORT PRIOR TO FINALIZING THE FINDINGS AND RECOMMENDATIONS; (4) ASSESSING THE PUBLIC INPUT IN THE FINAL REPORT BY (I) SUMMARIZING THE PUBLIC HEARINGS, PUBLIC COMMENTS, AND OTHER FEEDBACK; (II) ADDRESSING HOW THAT INFORMATION WAS INCORPORATED INTO THE FINAL REPORT AND RECOMMENDATIONS; AND (III) EXPLAINING THE REASONS WHY ANY PUBLIC FEEDBACK WAS NOT INCORPORATED INTO THE FINAL REPORT AND RECOMMENDATIONS; (5) ADVERTISING ALL TASK FORCE MEETINGS ON THE WEBSITES OF ALL AFFECTED JURISDICTIONS AND THE MARYLAND DEPARTMENT OF ENVIRONMENT, AND ON AT LEAST ONE SOCIAL MEDIA ACCOUNT; AND (6) HOLDING ALL MEETINGS OPEN TO THE PUBLIC ONLINE AND IN-PERSON, PURSUANT TO THE MARYLAND OPEN MEETINGS ACT.”

Amendment 5: Expanding the timeline to allow sufficient time to conduct the review and solicit public feedback.

Page 5, line 12

After “On or before”

add

“JUNE 30, 2025, THE TASK FORCE SHALL REPORT ITS DRAFT FINDINGS AND RECOMMENDATIONS TO THE MAYOR OF BALTIMORE CITY, THE COUNTY EXECUTIVE OF BALTIMORE COUNTY, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.”

Page 5, line 12

Strike (i)

Add

“(j)”

Page 5, line 12

After “On or before”

strike “~~January 30, 2024~~” and

add

“June 30, 2027”

Page 5, line 12

After “Task Force shall report its”

add

“final”

Page 5, line 21

After “remain effect through June 30,”

strike “~~2024~~” and

add

“2027”

Page 5, line 20

After “at the end of June 30,”

strike “~~2024~~” and

add

“2027”

Additional provisions to further the purposes of this legislation:

- Provide not less than \$2 million in funding from the State general fund to produce expert analyses on various governing models and alternatives, and to provide stipends for low-income ratepayers to participate on the taskforce. Analyses should include:
 - Comprehensive rate analyses;
 - Fiscal impact analyses for the City, County, stormwater systems of City and County, and the water /sewer utility systems;
 - Racial equity impact assessment;
 - Economic equity impact assessment;
 - Environmental impact and environmental justice analyses;
 - Legal analysis, including an assessment of legal consequences for local ratepayer and labor protections established by local jurisdictions, for the existing federal consent decree, and for any outstanding lawsuits;
 - Examination of other case studies of regional models beyond the limited sampling included in the 2021 review, and inclusive of Detroit/ Great Lakes

Regional Water Authority, as there is substantial research available about how this regionalization deepened regional racial inequities; and

- Alternatives analysis of options other than a governance change to address the underlying problems, such as how to address staffing shortfalls and equity in allocation of state and federal funding to the water/sewer system.
- Expand the Task Force's scope of study to assess all six tasks included in the entire 2021 review.
- Expanded consultation in section (h) to include representatives for all affected jurisdictions, the Maryland Commission on Environmental Justice and Sustainable Communities, the U.S. Environmental Protection Agency, and the Washington Suburban Sanitary Commission.

legislative tesimony senate.pdf

Uploaded by: Michael Myers

Position: FWA

Maryland Senate, Education, Energy, and the Environment Committee
Senator Brian J. Feldman, Chair
SB 880
March 15, 2023

TESTIMONY OF MICHAEL S. MYERS
Member, Back River Neck Peninsula Community Association, Inc.

Good afternoon Chairman Feldman and members of the Committee. My name is Mike Myers and I am a member of the Back River Neck Peninsula Community Association. My home is on the shore of Back River where I have resided for the last 10 years.

I am here to testify in favor with amendments.

1. First, I would like to see the Task Force provided with the expressed authority to obtain a full independent financial audit of the water and wastewater utilities in Baltimore City and Baltimore County. The 2021 Water/Sewer Comprehensive business review indicated that it has some financial information but more financial data is needed. For example, the 2021 review indicates that in Baltimore City, there were 110,000 of 196,000 accounts in Baltimore City are delinquent. This raises the question of whether the system is insolvent, and how the system is funded.
2. Second, I would like to see a modification of Section 1, Paragraph (i) to require that all reports created by the Task Force be made available to the general public. As currently written, the report is to be provided only to the Mayor of Baltimore City, the County Executive of Baltimore County, and to the General Assembly.
3. Third, Paragraph 1, Section (g)(3) currently requires the task force to assesses the governance structures for the Baltimore metro area's water and wastewater utility. I would suggest an even broader scope of the Task Force by going further and examining a potential

merger of the 2 million customers of WSSC with the 1.8 million customers of the Baltimore metro area into a large Washington Baltimore Commission with 3.8 million total customers. There may be economies of scale that can be passed down to ratepayers across the region, and other benefits, of such an entity. I think it's worth some examination.

4. And finally, my fourth suggestion is a modification of Section 1, Paragraph (b)(1) concerning membership on the Committee. As the bill stands, Baltimore City Mayor is allocated 5 members to sit on the Task Force while Baltimore County is allocated only 3. According to 2020 census data, Baltimore County has about 850,000 people compared to Baltimore City's 576,000. Also, according to the 2021 Water/Sewer Comprehensive Business Process Review, Baltimore County has 206,000 water accounts compared to Baltimore City's 194,000. The current ratio does not properly represent stakeholders affected by the legislation. An equal number of County and City members would be more aligned with the goals of Environmental Justice. Those goals are fair treatment and meaningful involvement of all people with respect to development and implementation of environmental laws, regulations, and policies.

I hope the committee will consider my suggestions. Thank you.

Eckel MVLS SB880 Fav W Amends.pdf

Uploaded by: Rianna Eckel

Position: FWA



JUSTICE FOR ALL

MARYLAND SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB880 WITH AMENDMENTS: BALTIMORE REGIONAL WATER GOVERNANCE TASK FORCE

Susan Francis
EXECUTIVE DIRECTOR

WEDNESDAY, MARCH 15, 2023

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D'Sean Williams-Brown

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.

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.

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 the threat of eviction, and homeowners facing the threat of tax sale due to unaffordable water bills. We have been working with the Baltimore Right to Water Coalition to win meaningful protections for Baltimore City residents and improve the Baltimore City Department of Public Works' customer service operations for years, and fear that regionalizing the Department of Public Works would threaten these hard-fought victories; therefore **we recommend SB 880 only be moved favorably with the incorporation of the Baltimore Right to Water Coalition amendments.**

Water is a human right and a basic necessity, but the Task Force process outlined in the legislation as-is does not treat the task at hand with enough deference. The rushed timeline of less than 11-months to produce an analysis and recommendations for a massive, 200-year-old water system, no requirements for public participation and input, and the lack of guardrails around the recommendations are wholly inadequate. The taskforce must be given adequate time to do a thorough job, the ratepayers must be included, and there must be protections in place to ensure that the Task Force will focus on public sector solutions, preserve democratic decision making, and protect the rights of water customers established under local laws.

Additionally, if the Task Force were to recommend regionalization and that form of governance were to move forward, this new authority established under state law would preempt local laws and protections. This change would

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Maryland Volunteer Lawyers Service (MVLS) removes barriers to justice through free civil legal help, community engagement, and advocacy for equitable laws. Our vision is for a fair legal system that is free of injustice and equitably serves underrepresented Marylanders.

take away control from the Baltimore City Council to set local protection and it would eliminate existing protections established under local laws.

Key protections that could be eliminated:

- City Charter protections that establish the water and sewer systems as inalienable assets of the city and banning privatization;
- Worker protections established under existing collective bargaining agreements with local jurisdictions;
- Ratepayer protections established by the Water Accountability and Equity Act, including the Water4All water affordability program, water shutoff protections for vulnerable populations, rights of renters to receive information about their water bills, the Customer Advocate's Office, and dispute procedures; and
- Sewage backup reimbursement programs established by the City.

Water/sewer regionalization is part of a broader national trend that disparately impacts majority Black cities and raises serious concerns for racial equity, accountability, and water affordability: "In the last decade, especially after the 2008 financial crisis, the urban centers of the Midwest such as Chicago and Detroit, but also in the Northeast, such as Baltimore and Philadelphia, have developed a new dynamic: the use of the state (in the form of local or regional governments) to transfer infrastructural resources and their control out of or away from marginalized urban populations, which are predominantly Black, brown, and immigrant."¹

In other jurisdictions that have regionalized their water systems by state statute, the water authority decision making powers about rates and services are given to a board of directors appointed by local elected officials. Protections for water customers would have to be passed through the General Assembly in the more limited 90-day window of the Maryland legislative session. Additionally, as the members of the board would not be elected by the people, it would strip democratic authority from the majority-Black voters in Baltimore City. Regionalization in cities like Detroit, Birmingham, and Pittsburgh has led to skyrocketing water rates, mass shutoffs, lost jobs for workers, and worse service for water utility customers.

The protections and improvements that Baltimoreans have fought hard for must be protected, as must democratic authority. In 2018, 77% of Baltimore's voters voted in favor of Question E, which instructed the water and sewer system to be an inalienable asset of the City. Establishing a regional water authority would be effectively disenfranchising the voters of Baltimore, further eroding trust in the government to work in our interest. Regionalizing and circumventing the will of the people could facilitate privatization and outsourcing, which leads to substantially higher water rates and a further erosion of public control.

More than half of Baltimoreans are already being billed more than the United Nations definition of affordable water service, no more than 3% of household income. The impacts of the recommendations of this Task Force have the potential to dramatically impact low-wealth and BIPOC (Black, Indigenous and other people of color) communities. While we want to be a partner in

ensuring the water system works better for all customers regardless of their jurisdiction, we must not act hastily and must consider the needs and consequences for our most vulnerable communities. For these reasons, we recommend a favorable report with the incorporations of the amendments offered by the Baltimore Right to Water Coalition.

¹ Cramer, Jon. "Race, Class, and Social Reproduction in the Urban Present: The Case of the Detroit Water and Sewage System." *Viewpoint Magazine*. October 31, 2015.

COALITION AMENDMENTS TO HB 843 | SB 880

BALTIMORE REGIONAL WATER GOVERNANCE TASK FORCE

AMENDMENT 1. LOW-INCOME RATEPAYER AND LABOR REPRESENTATION ON THE TASKFORCE.

This amendment would require (1) the County Executive and Mayor to each appoint one labor representative, (2) the Governor's appointees to include one low-income ratepayer and one representative from a local community organization representing low-income ratepayers; and (3) all Task Force members to be either ratepayers or representatives of ratepayers.

AMENDMENT 2. RACIAL AND ECONOMIC EQUITY.

This amendment would require racial equity and economic equity impact assessments of each alternative governing structures.

AMENDMENT 3: LOW-INCOME RATEPAYER AND LABOR PROTECTIONS.

This amendment would direct the Task Force to limit their recommendation to governing models that adhere to local ratepayer and worker protections, including (1) Ballot Question E of 2018 that banned private for-profit ownership, operation or management of the systems, (2) the Water Accountability and Equity Act, which established a local water affordability program and other ratepayer protections, (3) collective bargaining

rights of workers, and (4) the sewage backup reimbursement programs.

AMENDMENT 4: PUBLIC INPUT.

This amendment would require public input at public hearings throughout the City and County. It would require a public comment period on a draft report.

AMENDMENT 5: TIMELINE.

This amendment would extend the timeline from January 2024 to June 2027 to allow sufficient time to conduct the review and due-diligence and solicit public feedback.

COALITION CONCERNS WITH HB 843 | SB 880

BALTIMORE REGIONAL WATER GOVERNANCE TASK FORCE

Under this emergency legislation, the Baltimore Regional Water Governance Task Force must recommend a new governance model for the Baltimore water and sewer system in less than a year for the purpose of informing state legislation.

The future of our water/sewer system is far too important for such rushed assessment that provides no opportunity for public participation and engagement.

The ratepayers and workers of the water/sewer system deserve to have their voices heard and a seat at the table.

A Rushed Timeline: The Task Force must produce a recommendation by January 30, 2024. This is far too short a period for a meaningful analysis of our 200-year-old system.

Lack of Any Public Participation: The legislation requires no public hearings, public input, public comments, labor or ratepayer representation, or any public participation at all.

Inequitable City Representation: Baltimore City owns the systems, but it has minority representation: only 5 out of 13 members will



be appointed by Baltimore City to recommend the future of the City assets.

No Guardrails: The legislation provides no guardrails to ensure that the Task Force will focus on public sector solutions, preserve democratic decision making, and protect the rights of workers and the ratepayers established under local laws.

Lack of Due Diligence and Limited Scope of Study: The Task Force will look at one section of a single consultant's report on this issue. The Task Force lacks the information necessary to properly assess the alternative governing models included as examples in that report. Case studies can be useful but they should not be

generalized because water and sewer systems have high asset-specificity. No effort has been made to cost out any of the alternatives examined. Instead, the legislation would put the onus of additional analyses on an all-volunteer Task Force. These studies cannot be reasonably completed by volunteer members of any Task Force or under the time limit established in the legislation.

Any move to a new governance structure in absence of these analyses opens up the City and County to substantial harm. It would render any Task Force recommendation incomplete and inadequate to the design of future legislation.

RISKS OF A REGIONAL WATER AUTHORITY

WATER IS A HUMAN RIGHT

In July 2021, Baltimore County and Baltimore City issued a [comprehensive business process review](#) of the water and sewer services. The review documents the existing service agreements, outlines numerous issues including high staff turnover and vacancies, and advocates for the city and county to consolidate the water system into a single entity that could be overseen by a new regional authority. Such a process could be damaging for the people of Baltimore, and any analysis of the future of the systems must be done through a lens of racial and economic equity. Lessons must be learned from the experiences in Detroit, Pittsburgh, and Birmingham.

LOSS OF LOCAL DEMOCRATIC CONTROL

A regional authority would likely be established by state statute and overseen by a board of directors appointed by the Mayor, County Executives, and/or other

state officials. Immediate decision making about rates and services would be set by those appointed officials, and any protections would have to be established by the General Assembly. Because the board members are unelected officials, residents would not be able to exercise ballot box accountability over their decisions.

A new authority established by state law would preempt local laws and protections. This change would take away control from the Baltimore City Council to set local protection and it would eliminate existing protections established under local laws. Moreover, the City Council could struggle to get constituent concerns answered because the water/sewer system would be moved outside of City government.

Key protections that could be eliminated:

- City Charter protections that establish the water and sewer systems as

inalienable assets of the city and banning privatization;

- Worker protections established under existing collective bargaining agreements with local jurisdictions;

- Ratepayer protections established by the Water Accountability and Equity Act, including the Water4All water affordability program, water shutoff protections for vulnerable populations, rights of renters to receive information about their water bills, the Customer Advocate's Office, and dispute procedures; and

- Sewage backup reimbursement programs established by the City.

Notably, Baltimore residents overwhelmingly affirmed their desire to control their water and sewer system, when more than three-quarters of voters approved Ballot Question E in 2018. Baltimore City residents declared their water and sewer system to be an inalienable asset of the City. State legislation to establish a regional authority would circumvent the City Charter, effectively disenfranchising City residents from decisions about their water/sewer system. This process bypassing the City Charter and public accountability could facilitate privatization and outsourcing of services, leading to substantially higher water rates and further erosion of public control.

CASE STUDIES

Detroit: A state-appointed emergency manager leased the Detroit regional water and sewer system to a new Great Lakes Water Authority. While the city retained nominal ownership of the system, all major decisions are now made by the six-member water authority board, only two of whom are from the city. The city lost control over rates setting and project prioritization, among other key decisions.¹

Birmingham: In Birmingham after a settlement with the State in 2001, the Attorney General of the state now has control over the Regional Water Authority called the Birmingham Water Works Board. The Attorney General specifically reserves the right to take whatever actions they deem necessary or advisable to protect the interests of the ratepayers during the terms of the Agreement, including, but not limited to matters involving rate, service, facilities or equipment issues.²

Pittsburgh: Pittsburgh Water and Sewer Authority is overseen by an appointed board of directors, who unilaterally made the decision to privatize the system's management to Veolia. During the deal, 23 workers, including water quality staff, were laid off, and the utility violated water quality regulations by switching treatment chemicals to save money. The more corrosive chemical caused lead to leach from lead service lines into people's drinking water.³ Pittsburgh City Council Member Deborah Gross, who served on PWSA's board for six years, has called for the authority to return to city control. Her driving reason: When there were problems with Veolia, she heard about it immediately first hand from her residents, unlike the other unelected members of the board: "It took a while for my fellow board members, because they don't interface with citizens directly, to really trust what the people were saying and not what Veolia was telling them, at all levels."⁴

RACIAL AND ECONOMIC EQUITY IMPLICATIONS

Baltimore's water/sewer system was built out by generations of City residents through not only water

bills but also through taxes historically. In 1854, after 50 years of private water provision, the City bought the private Baltimore Water Company for [\\$1.4 million](#). It wasn't until 1979 that the

City's Bureau of Water and Wastewater was established as self-sustaining enterprise funds operated without profit or loss to the city's general fund.

The water and sewer systems are the City's biggest assets. In 2021, the water and wastewater system had total capital assets worth \$5.4 billion⁵—this is more than \$2 billion more than the capital asset value of the rest of the entire city government (\$3.2 billion).⁶ Even though the city charter requires that all water/sewer bill revenue go to the water/sewer funds and prohibits transfers to the general fund, the water and sewer systems are still assets listed on the City's books.

If a new water authority is established, a key decision will be whether Baltimore City is compensated for the loss of these assets, and if so, how will the new authority recover that cost. If the City is not compensated for the loss of assets, the transfer could cause substantial harm to the City and its majority Black population. If the new Authority does pay for the assets, then it must recover that cost through rate hikes on all customers, deepening the regional water affordability crisis that disproportionately impacts Black households.

Water/sewer regionalization is part of a broader national

trend that disparately impacts majority Black cities and raises serious concerns for racial equity: “In the last decade, especially after the 2008 financial crisis, the urban centers of the Midwest such as Chicago and Detroit, but also in the Northeast, such as Baltimore and Philadelphia, have developed a new dynamic: the use of the state (in the form of local or regional governments) to transfer infrastructural resources and their control out of or away from marginalized urban populations, which are predominantly Black, brown, and immigrant.”⁷

The City must question any analysis about the future of the water/sewer system that fails to incorporate racial and economic equity.

CASE STUDIES

Detroit: Hundreds of thousands of Detroit residents had their water shutoff during the forced regionalization of the Detroit water system by an emergency manager, disproportionately harming Black City residents.⁸ In 2014, a state-appointed emergency manager used bankruptcy proceedings to bypass the City Charter’s requirement for voter approval to lease the regional assets to the newly established Great Lakes Water Authority. This process disenfranchised Detroit residents and left the city’s majority Black population out of key decision making about the future of their water system. There is substantial research about how the regionalization of Detroit’s utility system deepened regional water and sewer insecurity and racial inequities.⁹

Birmingham: Since Birmingham has moved to a regional based water authority, billing disputes and increased water bills have plagued the city and had a disproportionate impact on Black residents.¹⁰ In 2015, 1 in 8 customers in Birmingham had their water shutoff.¹¹ In a city that is over 68% black, residents have repeatedly tried to regain local control over their water utility to have greater influence over more accountability and transparency at their water utility.¹² The process of regionalization has left Black Birmingham residents looking to an Attorney General living 90 miles away for answers to problems that affect their daily lives.

CITATIONS

- 1 Haas Institute at the University of Berkley et al. “Water Equity and Security in Detroit’s Water and Sewer District.” January 2019, Available at https://haasinstitute.berkeley.edu/sites/default/files/detroit_water_equity_full_report_jan_11_2019.pdf.
- 2 Heather Gann, Birmingham Water Works: What is it? Where did it come from? And who’s holding the reins?, Alabama.com, Sept. 22, 2022, <https://www.al.com/news/birmingham/2022/09/birmingham-water-works-what-is-it-where-did-it-come-from-and-whos-holding-the-reins.html>
- 3 Hosea, Leana and Sharon Lerner. “From Plttsburgh to Flint: the dire consequences of giving private companies responsibility for ailing public water systems.” The Intercept. May 20, 2018.
- 4 Morrison, Oliver. “Part 8 - Privatization pitch: how close PWsA came to be privatization.”Public Source. October 19, 2021.
- 5 Baltimore City, MD. “Water Utility Fund Financial Statements, June 30, 2021.” February 15, 2022 at 4; Baltimore City, MD. “Wastewater Utility Fund Financial Statements, June 30, 2021.” February 15, 2022 at 4.
- 6 Baltimore City. Comprehensive Annual Financial Report, Year Ended June 30, 2021.” January 27, 2022 at 8.
- 7 Cramer, Jon. “Race, Class, and Social Reproduction in the Urban Present: The Case of the Detroit Water and Sewage System.” Viewpoint Magazine. October 31, 2015.
- 8 Cramer, Jon. “Race, Class, and Social Reproduction in the Urban Present: The Case of the Detroit Water and Sewage System.” Viewpoint Magazine. October 31, 2015; Mesmer K., Aniss M., Mitra R. (2020). Naturalizing environmental justice: How privileged residents make sense of Detroit’s water shutoffs. In Schmitt C. R., Castor T. R., Thomas C. S. (Eds.), Water, rhetoric, and social justice: A critical confluence (pp. 149–170). Lexington Books.
- 9 For example, see: Haas Institute at the University of Berkley et al. “Water Equity and Security in Detroit’s Water and Sewer District.” January 2019, Available at https://haasinstitute.berkeley.edu/sites/default/files/detroit_water_equity_full_report_jan_11_2019.pdf; Mesmer K., Aniss M., Mitra R. (2020). Naturalizing environmental justice: How privileged residents make sense of Detroit’s water shutoffs. In Schmitt C. R., Castor T. R., Thomas C. S. (Eds.), Water, rhetoric, and social justice: A critical confluence (pp. 149–170). Lexington Books.
- 10 NAACP Legal Defense and Educational Fund, Water/Color: A Study of Race & the Affordability Crisis in American Cities, June 2019, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf
- 11 Id.
- 12 Lee Hedgepeth, Residents wanted ‘democracy.’ Instead, Birmingham Water Works got a restraining order, NextStar Media, Jan. 23, 2023, <https://www.cbs42.com/digital-exclusive/residents-wanted-democracy-instead-birmingham-water-works-board-got-a-restraining-order/>

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Kenya Campbell
PRESIDENT

LaBrina Hopkins
SECRETARY-TREASURER

**Written Testimony Submitted to the
Maryland Senate Education, Energy and the Environment Committee
From the American Federation of Teachers– Maryland
SB 880 – Baltimore Regional Water Governance Taskforce
March 15, 2023
Favorable-with-amendments**

Good afternoon Chair Feldman and members of the Senate Education, Energy, and the Environment Committee. AFT-Maryland is the state federation for a number of city, county, and state-wide labor unions in Maryland, including City Union of Baltimore, AFT Local 800, and the Baltimore County Federation of Public Employees, AFT Local 4883, both of whom represent city and county workers employed in the water and wastewater departments for their respective jurisdictions. We have also recently been in coalition with a number of civil and environmental rights organizations– including Food and Water Watch, with whom we partnered with in the effort in 2018 to pass the city charter amendment Question E, protecting against water utility privatization. We appreciate the committee’s willingness to consider amendments to SB 880, as we believe this bill to have major implications for the city and county’s employees and residents that are worth considering.

Because this taskforce will study an issue that impacts the work of thousands of our members, and because these members have a specialized knowledge about the strengths and inefficiencies of the current system, we ask that seats on this taskforce be reserved for a representative for those employees. Additionally, as water is a vital resource required to sustain life, the work of the taskforce needs to be transparent and receptive to voices from the impacted community. Finally, we are concerned that a study to look closely at changing the governance structure of the city’s water and wastewater utility may not take issues of racial equity into account, and therefore ask that the legislature ask this committee to produce a racial equity impact assessment and economic equity impact assessment for each form of alternative governance structure to be studied. We have appended a line-by-line copy of these amendments to the end of our written testimony for the committee to consider.

The amendments drafted by the coalition ask for specific voices from labor and from the community be placed on the taskforce, alongside ample opportunities for resident feedback on the work of that taskforce. We ask that the Education, Energy, and the Environment Committee adopt a favorable-with-amendments report to SB 880. Thank you.

Proposed Coalition Amendments to SB 880

Amendment 1. Adjusting the membership of the taskforce

Page 3, line 1

After "Governor"

add

"INCLUDING: 1. ONE REPRESENTATIVE FROM A LOCAL COMMUNITY ORGANIZATION REPRESENTING LOW-INCOME WATER RATEPAYERS IN THE CITY, AND 2. ONE LOW-INCOME WATER RATEPAYER IN THE CITY."

Page 3, line 2

After "Mayor of Baltimore City"

add

“, INCLUDING AT LEAST ONE MEMBER FROM CITY UNION OF BALTIMORE, AFT LOCAL 800, REPRESENTING EMPLOYEES WORKING IN THE CITY’S WATER/WASTEWATER FACILITIES

Page 3, line 4

After "County"

add

“, INCLUDING AT LEAST ONE MEMBER FROM THE BALTIMORE COUNTY FEDERATION OF PUBLIC EMPLOYEES, AFT LOCAL 4883, REPRESENTING COUNTY EMPLOYEES WORKING IN THE COUNTY’S WATER DEPARTMENT”

Page 3, line 12

Strike "or"

and add

"4. UTILITY SERVICE AFFORDABILITY, INCLUDING PERSONAL KNOWLEDGE; 5. RACIAL EQUITY IMPACT ASSESSMENTS; 6. COLLECTIVE BARGAINING AGREEMENTS; 7. SEWAGE BACKUPS, INCLUDING PERSONAL KNOWLEDGE; 8. STORMWATER; 9. INTEGRATED PLANNING; 10. CLIMATE RESILIENCY; 11. SOURCE WATER PROTECTION; OR 12. PUBLIC HEALTH; AND"

Page 3, line 13

After "(ii)"

add

"EITHER 1. RECEIVE WATER AND WASTEWATER SERVICE FROM THE WATER AND WASTEWATER UTILITY, OR 2."

Amendment 2. Including racial equity and economic equity impact assessments

Page 5, line 5

Strike “and”

and add

“(5) CONDUCT A RACIAL EQUITY IMPACT ASSESSMENT AND AN ECONOMIC EQUITY IMPACT ASSESSMENT FOR EACH ALTERNATIVE GOVERNANCE STRUCTURE; AND”

Page 5, line 6

Strike “(5)”

and add

“(6)”

Amendment 3: Directing the Task Force to limit their study to public sector solutions that will (1) exclude private for-profit ownership, operation or management of the systems as prohibited by the Baltimore City Charter, (2) protect democratic decision-making and the rights of workers and residents, and (3) not undermine or conflict with local water affordability laws and charter protections approved by voters.

Page 5, line 10

After “Task Force shall”

Add

“(1) CONSIDER ONLY ALTERNATIVE GOVERNANCE MODELS THAT ADHERE TO RATEPAYER AND LABOR PROTECTIONS ESTABLISHED BY LOCAL JURISDICTIONS, INCLUDING: (i) BALTIMORE CITY BALLOT QUESTION E OF 2018, WHICH WAS APPROVED BY VOTERS, TO AMEND THE CITY CHARTER TO PROHIBIT PRIVATE, FOR-PROFIT OWNERSHIP, OPERATION OR MANAGEMENT OF THE WATER SUPPLY AND WASTEWATER SYSTEM; (ii) THE WATER ACCOUNTABILITY AND EQUITY ACT OF BALTIMORE CITY, WHICH ESTABLISHED: A LOW-INCOME WATER AFFORDABILITY PROGRAM; WATER SHUTOFF PROTECTIONS FOR VULNERABLE HOUSEHOLDS; A DISPUTE RESOLUTION PROCESS; RIGHTS OF TENANTS TO RECEIVE THEIR BILLS, ACCESS ASSISTANCE, AND DISPUTE RESOLUTION; AND AN OFFICE OF CUSTOMER ADVOCACY AND APPEALS; (iii) COLLECTIVE BARGAINING AGREEMENTS, WORKER PENSIONS, AND BENEFITS FOR WORKERS IN THE CITY AND THE COUNTY; AND (iv) BALTIMORE CITY’S SEWAGE ONSITE SUPPORT PROGRAM AND EXPEDITED REIMBURSEMENT PROGRAM; ”

Page 5, line 10

Before “consult with”
add
“(2)”

Amendment 4: Requiring public input.

Page 5, line 11
After “Service”
strike “:”
and add

“; AND (3) PROVIDE OPPORTUNITIES FOR PUBLIC INPUT BY: (1) PUBLISHING A DRAFT OF ITS FINDINGS AND RECOMMENDATIONS FOR PUBLIC REVIEW ON THE WEBSITES OF THE CITY AND COUNTY; (2) HOLDING PUBLIC HEARINGS: (I) PRIOR TO THE DEVELOPMENT OF A DRAFT REPORT; (II) AFTER THE ISSUANCE OF A DRAFT REPORT; (III) WITH HEARINGS HELD ONLINE AND IN PERSON AT DIFFERENT TIMES OF DAY AND LOCATED AT: 1. THE SEVEN EARLY VOTING SITES WITHIN THE CITY; 2. FIVE LOCATIONS IN THE COUNTY AT SITES WITHIN THE WATER SYSTEM SERVICE AREA THAT ARE CONVENIENT FOR PUBLIC TRANSPORTATION; AND 3. ONE LOCATION IN EACH OF THE FOUR OTHER JURISDICTIONS OF THE AFFECTED COUNTIES. (3) PROVIDING A PUBLIC COMMENT PERIOD OF AT LEAST 90 DAYS ON THE DRAFT REPORT PRIOR TO FINALIZING THE FINDINGS AND RECOMMENDATIONS; (4) ASSESSING THE PUBLIC INPUT IN THE FINAL REPORT BY (I) SUMMARIZING THE PUBLIC HEARINGS, PUBLIC COMMENTS, AND OTHER FEEDBACK; (II) ADDRESSING HOW THAT INFORMATION WAS INCORPORATED INTO THE FINAL REPORT AND RECOMMENDATIONS; AND (III) EXPLAINING THE REASONS WHY ANY PUBLIC FEEDBACK WAS NOT INCORPORATED INTO THE FINAL REPORT AND RECOMMENDATIONS; (5) ADVERTISING ALL TASK FORCE MEETINGS ON THE WEBSITES OF ALL AFFECTED JURISDICTIONS AND THE MARYLAND DEPARTMENT OF ENVIRONMENT, AND ON AT LEAST ONE SOCIAL MEDIA ACCOUNT; AND (6) HOLDING ALL MEETINGS OPEN TO THE PUBLIC ONLINE AND IN-PERSON, PURSUANT TO THE MARYLAND OPEN MEETINGS ACT.”

Amendment 5: Expanding the timeline to allow sufficient time to conduct the review and solicit public feedback.

Page 5, line 12
After “On or before”
add

“JUNE 30, 2025, THE TASK FORCE SHALL REPORT ITS DRAFT FINDINGS AND RECOMMENDATIONS TO THE MAYOR OF BALTIMORE CITY, THE COUNTY EXECUTIVE OF BALTIMORE COUNTY, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.”

Page 5, line 12

Strike (i)

Add

“(j)”

Page 5, line 12

After “On or before”

strike “~~January 30, 2024~~” and

add

“June 30, 2027”

Page 5, line 12

After “Task Force shall report its”

add

“final”

Page 5, line 21

After “remain effect through June 30,”

strike “~~2024~~” and

add

“2027”

Page 5, line 20

After “at the end of June 30,”

strike “~~2024~~” and

add

“2027”