



**Written Testimony of David Wheaton
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**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,

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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.