



JUSTICE FOR ALL

MARYLAND HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF HB843 WITH AMENDMENTS: BALTIMORE REGIONAL WATER GOVERNANCE TASK FORCE

Susan Francis
EXECUTIVE DIRECTOR

WEDNESDAY, MARCH 1ST, 2023

BOARD OF DIRECTORS

Alexandria K. Montanio
PRESIDENT

David G. Sommer
VICE PRESIDENT

Penny J. Minna
TREASURER

James Tansey
SECRETARY

- Tyree Ayers
Shereefat O. Balogun
Matthew M. Bryant
Jhonell Campbell
Richard L. Costella
Susan DuMont
Brian Gordon
La'Tika Howard
Dr. Ann Irvine
Robin Leone
Reba Letsa
Michelle McGeogh
Saad Malik
Michael March
Anthony May
Chelsea Ortega
Derek P. Roussillon
Marc E. Shach
Dennis J. Shaffer
Sheila J. Stewart
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 HB0843 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

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."<sup>1</sup>

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.

<sup>1</sup> 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.

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.