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## HB0843 - Baltimore Regional Water Governance Task Force

March 1, 2023

Environment and Transportation  
FAVORABLE WITH AMENDMENTS

On behalf of Food & Water Watch and our 44,000 supporters in Maryland, **we recommend that you issue a favorable report on HB0843 if and only if the Baltimore Right to Water Coalition's amendments are adopted.** This list of amendments supported by Food & Water Watch and other advocacy, environmental, and labor organizations is included at the end of this testimony. These amendments seek to protect the ratepayers and workers of the water and sewer utility.

HB0843 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, 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.

We propose five 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.<sup>1</sup>

### **(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. These problems cannot be solved in a year, and 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.

I urge you to incorporate the following recommended amendments from the Baltimore Right to Water Coalition before allowing HB0843 to move forward.

Thank you for your time and consideration,

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

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<sup>1</sup> 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://haasstitute.berkeley.edu/sites/default/files/detroit\\_water\\_equity\\_full\\_report\\_jan\\_11\\_2019.pdf](https://haasstitute.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.

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.