



MEMORANDUM

To: The Honorable President and Members of the City Council
c/o Natawna Austin, Executive Secretary

From: Christine Griffin, Deputy Director of Policy and Government Relations, Office of the Comptroller

Date: January 12, 2024

Re: Update to prior bill report - draft recommendations Regional Water Governance Task Force
23-0182R Informational Hearing – Regional Water Governance Task Force.

NOTE: The below represents a proposal from one or more members of the Task Force, but has not been voted on as an adopted action from the entirety of the taskforce and remains in draft format.

RWGTF Recommendations - Draft

- 1) In the short-term, we recommend a solution based on a variation of Option C, where the City breaks the Bureau of Water & Wastewater out of the Department of Public Works, so that water & wastewater operations can be run as its own department and would continue making operational improvements with the input and assistance of a “City-County Water Advisory Committee”.
- 2) For the long term, we acknowledge that while Option E shows promise in addressing concerns about the existing governance structure which the other options do not, the Task Force does not have time to perform the requisite due diligence which simply recommending Option E requires (an equity study, debt service research, pension & benefits research, stormwater research, etc.) before the report deadline at the end of January. As such, we recommend that this due diligence be done by a subsequent working group over the course of the next few years, with the results either informing the best possible way for us to set up a regional water authority or making it clear that Option E is not actually a workable long-term solution for our situation.
- 3) If Option E should prove to be an unworkable long-term solution for any reason, we recommend that the City, the Counties and the State create, empower, and provide funding to support a "Baltimore Regional Water Governance Board" made up of City, County and State leaders to provide policy direction and oversight of the existing administrative structure.

Phase I - Short Term (implementation begins immediately)

First, we recommend, as proposed by Task Force Member Powell, returning¹ the existing Water & Wastewater bureau to a standalone Water (W/WW/SW) Department. This would allow for a singular focus, and necessary resources, to effectively manage operations, maintenance, capital investment and service delivery for the existing regional water and

¹ From the time the City of Baltimore purchased the private Baltimore Water Company in 1854, for the purpose of having a public water utility, until 1925, the water system for the City of Baltimore was governed by a standalone Water Department with a Board appointed by the Mayor and City Council of Baltimore. In 1925, the Water Department transitioned to a Department of Public Works as the Bureau of Water Supply and in 1979 that Bureau transitioned to the Bureau of Water and Wastewater as it is known today. (From various history sources including the Maryland Archives)

wastewater utility responsible for both retail and wholesale services. Advantages include reducing the chain of command for decision making, and elevating the ranks of W&WW managers, to justify salaries consistent more easily with attracting and retaining the best personnel. There is precedent for this, in that the existing departments of Transportation and General Services were both previously bureaus inside Public Works. Additionally, there is also precedent set by other municipal regional water utilities having the same scope and scale of the City of Baltimore's regional water utility, such as NYCDEP, Atlanta DWM, Philadelphia Water, San Francisco PUC, Miami-Dade Water & Sewer, and New Orleans SWB, which has a Mayor appointed/led board and an executive director.

Next, we recommend establishing a "City-County Water Advisory Committee" to ensure that the current operation is accountable to all ratepayers of the system. Members would be selected by the Mayor of Baltimore City and Baltimore County Executive, with the committee's scope of work including, but not limited to, engagement in long-term planning, drought response, capacity planning, CIP prioritization, customer service & support and water & sewer billing issues.

Specific operational issues which would also be addressed in the short term include:

Transparency: Perform a cost-of-service study to provide ratepayers with a clear understanding of how their water bills translate to the requirements of operating the system

Equity: Perform a joint equity assessment to evaluate the impact that the existing governance structure has on employees, customers, stakeholders, and the environment, and recommend policy and project modifications to promote community well-being

Intermunicipal Agreement Improvements: Document standard annual procedures and milestone deadlines for developing annual cost sharing allocations and prepare a Contract Administration Memorandum to document procedures for use

Phase II - Long Term (2024 through 2026)

A) We recommend that before we can responsibly proceed with the implementation of a Regional Water Authority, as laid out in Option E, further evaluation of several threshold issues would need to be conducted by what will essentially be a subsequent task force - a dedicated, professional working group.

The issues to be studied by this working group should include, but are not limited to, the following:

Equity: Creation of an equity analysis to understand the impact of transition to a newly established authority on vulnerable residents in each jurisdiction, including recommended programming to support residents through actions associated with transition

Financial: Development of a financial transition plan, including an analysis of the fiscal consequences of moving to an authority model for each jurisdiction, especially in terms of pension and benefit commitments and debt service

Human Capital: Evaluation of the potential workforce for a Regional Water Authority, including the hiring of new employees and transition of existing City and County employees to a newly established authority model

Legal: Assessment of any legal and legislative adjustments needed to transition to a Regional Water Authority, including an analysis of changes needed to the City and County codes and charters

Operational: Assessment of any administrative and operational adjustments needed to transition to a Regional Water Authority, including a comprehensive examination and analysis of whether stormwater management should be included in the Authority's responsibilities

We recommend that in the upcoming legislative session, the General Assembly should provide financial support for this working group that will research and evaluate the threshold issues listed above involved in establishing a Regional Water Authority. Funding should include the allocation of resources for legal counsel, since neither the City nor County's law departments can advise such an independent entity.

While the working group may or may not choose to specify the exact composition of the Authority's Board, we recommend that a simple majority of the Board be chosen by City officials, to respect the City's ownership of the water & wastewater system.

Additionally, while any of several factors may eventually identify Option E to be unworkable, we specifically recommend against moving forward with Option E if no solution can be found to avoid refinancing the City's existing water and wastewater debt.

B) ***Next, if the working group determines that Option E is unworkable, we recommend that the City, the Counties, and the State create, empower, and provide funding for staff and/or assign staff to support a "Baltimore Regional Water Governance Board".*** As suggested by Task Force Member Summers, this body would be made up of City, County and State leaders with the necessary water, financing and other expertise needed to oversee and coordinate regional planning, financing, management, and operation of both the City and County water and wastewater systems. The system ownership, loans, and most of the employees with both the City and County could be retained by those respective jurisdictions to avoid the threshold issues identified by WSP.

To be successful, this would require both the City and County to agree and commit to submitting both of their water and wastewater entities to the authority of the Board and making modifications to the way they manage and operate the systems based on the Board's recommendations and directives. To make it a binding commitment that is not easily changed by new local administrations, the Board would be established in both State law and matching local ordinances. Among other things, the legislation creating the Board would need to define the Board's makeup and responsibilities, its funding and staffing, and the City and County's responsibilities to follow the direction of the Board for defined issues in the law. The key thing is that the Board would be defined in State and local law to have as much authority as necessary and agreed to, if it is done in a way that avoids the threshold issues.

Like a compact commission², the "Baltimore Regional Water Governance Board" would be granted authority and funding in both State law and local ordinances to hire staff and coordinate the planning, financing, management and operation of water and wastewater systems and establish rules and/or regulations that would be followed by the City and Counties that contribute water from their land area, and manage, operate, and benefit from the system. ***While the working group may or may not choose to specify the exact composition of the Board, we recommend that a simple majority of the Board be chosen by City officials, to respect the City's ownership of the water & wastewater system.***

The Board's oversight authority could include any (or all) of the aspects of the shared water system that we have discussed in the Task Force meetings, including setting rates and making sure that the jurisdictions' stormwater management programs are protective of water quality in the reservoirs and do not overwhelm the sewage collection system, causing sewage overflows. The City and County would have to follow the directions and mandates of the Board. As far as rate setting, the Board could have a rate setting role by reviewing cost of service reports and modifying and/or adopting rates proposed by the City and the County, or the Board could be directly responsible for developing and implementing rates (uniform or by districts) and ensuring that equity issues are properly addressed, based on data and analysis from the City and County and the Board's own staff. The working group should discuss this matter and resolve these remaining specifications, should it determine that Option E is unworkable.

² There is a precedent for this type of legally mandated cooperation and regulation of independent jurisdictions in the federal and state laws that created the Susquehanna River Basin Commission (SRBC - <https://www.srbc.gov/>). SRBC is a river basin "Compact Commission", established under federal law with companion laws in New York, Pennsylvania, and Maryland (Env Art §5-301). The Commission is charged with coordinating the development and use of the water resources of the Susquehanna River. SRBC also has been granted regulatory authority over water appropriation and use of water by businesses, government agencies and municipalities in all three states that govern the land area that makes up the Susquehanna River Basin. There are similar compact commissions for the Potomac (MD, VA, WV, PA and DC) <https://www.potomacriver.org/> and the Delaware (DE, PA, NJ, NY) <https://www.nj.gov/drbc/>