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RWGTF Recommendation - **Draft** TF Member Comments

~~1) In the short-term, we recommend a solution based on a variation of Option C, with the possibility of where the analyzing the City breakings~~ 1) In the short-term, we recommend the City of Baltimore's Department of Public Works take measures necessary and feasible to make immediate improvements in service delivery to all customers of the regional utility (retail and wholesale) as well as operations and maintenance of critical infrastructure inclusive of the water and wastewater treatment facilities. We also recommend the City of Baltimore's Department of Public Works together with the Baltimore County Department of Public Works initiate cooperative improvements in the joint planning function as well as coordination to address common environmental compliance requirements and services to mitigate impacts to all communities. We recommend the City of Baltimore, take measures to assess the feasibility and actions required to implement 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 separate department and would continue making operational improvements with the input and assistance of a "City-County Water Advisory Committee," and assessment of the County to do the same with similar programs under the County's Department of Public Works and Transportation. Working Group". The assessment should consider any impacts to other services and operations of the City."

2) For the long term, we acknowledge that while Option E is an option shows shows may provide some benefits in promise in addressing concerns about the existing governance structure, which the other options do may not, the Task Force has not had an opportunity, based on the information provided, does not have time to perform the requisite due diligence for all viable options before the report deadline at the end of January. A recommendation of Option E, or any similar governance structure, which simply recommending Option E requires further analysis and assessment of the eight criteria in the House Bill and other threshold issues (an equity study, workforce analysis, operation and maintenance decision making, capital improvement planning, compliance coordination, 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 three years, to determine what public governance structure will be best suited for the regional water and wastewater utility, to optimize regional stakeholder participation from the date of issuance of this report few years, with the results either informing the best possible way for us stakeholders to to implement Option E or an alternative regional governance structure as described below, set up to establish a regional water authority or making it clear that Option E is not actually a workable the appropriate long-term solution for the Baltimore Regional Water and Wastewater Utility, 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 working group provide further recommendations for policy direction and oversight of the "Baltimore Regional Water Governance Water and Wastewater Utility" Board" made up of City, County and State leaders to provide policy direction and oversight of the existing administrative structure.

4) We recommend a City-County Rate Board.

Commented [A1]: TF Members Buckler, Reid, Stein, and Summers submitted combined comments which are listed under the username "Author".

Commented [CM2]: Comment on text as originally written, the words "City-County Water Advisory Committee" have been highlighted: I agree this is a good direction, I would need to understand more of the "City-County Water Advisory Committee" to move forward with this attached. This is the only concern I have with #1. I also highlighted the point of concern.

Commented [PM3]: Comment on text as originally written: There is potential in this direction for agreement however there needs to be more clarity in what composes the "City-County Water Advisory Committee" how it is composed and what authority it has in terms of oversight.

Commented [YK4]: I am unclear about the purpose of the "City County Water Advisory Committee". It reads as a hybrid between a task force and a day-to-day governance team. If that is the intent, why can't this "Committee" perform the due diligence that is recommended to be done during Phase 2, by the "2nd task force"?

Commented [PM5]: Comment on text as originally written: We are not in favor of Option E.

Commented [CM6]: Comment on text as originally written: I would not support this due to lack of information.

Commented [PM7]: Comment on text as originally written: We do not agree with this option as there is little information to make an informed decision. The structure and the composition of the "Regional Water Governance Board" would need to be determined in addition to the authority of the board.

Commented [PKL8]: As written, this is similar to a regional authority.

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Phase I - Short Term (implementation begins immediately)

First, we recommend, immediate improvement measures as described and are on-going.

Second, as proposed by Task Force Member Powell, assesswe recommend, following an assessment 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 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. We also recommend the assessment of the County to do the same with similar programs under the County's Department of Public Works and Transportation

Next, we recommend establishing a professional "City-County Water Advisory Committee/Working Group" to ensure that the current operation is strengthened and accountable to all ratepayers of the system. Members would be selected by the Mayor of Baltimore City, and Baltimore County Executive, and the Governor, to include a representative from wholesale customers 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. The appointees to the Committee shall have specific expertise and experience in one or more of the following disciplines: water resources management and protection; the management and operations of a water and wastewater systems; environmental finance; human resources management; environmental justice and equity; or other disciplines relevant to management and operation of a water and wastewater system. and The appointed Committee shall hold public meetings on a recurring basis to review, discuss and make recommendations on the operational issues referenced below to strengthen current operation of the system to better address current and future challenges.

Specific operational issues which would also be addressed in the short term include, but are not limited to:

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

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)

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

Commented [YK9]: I think explicitly recommending another task force can be problematic. HB843 clearly charged us w/ recommending a model *along with necessary legislation and funding needs*. It is better to distill our recommendation to: Phase I, Model C (or some variation thereof, perhaps the BWW spin-off recommended) and Phase II, Model E. Along with that we can highlight all the threshold issues *and* recommend legislation that addresses affordability/equity with state funding support to aid the transition. Then leave it to the legislature to determine if another task force is required.

Commented [PKL10]: This reference is to SW but would need to be assessed.

Commented [YK11]: As a general comment, whether the "Committee" or the potential "Baltimore Regional Water Governance Board", I would like us to consider explicitly recognizing the need to have representation from wholesale water customers – Howard County, Harford County, Carroll County.

Commented [PKL12]: What authority would such a committee or working group have to engage in these activities?

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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.; strengthen measures related to the joint planning functions and codify in an MOA; identify a new structure for the joint planning and operational functions

Phase II - Long Term (2024 through 2026)

~~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.~~**A) The Task Force recommends that a regional governance structure be created to oversee the provision of water and wastewater services for the following reasons:**

1. The Baltimore water and sewer system is IN FACT regional. The water supply starts in the Counties, is collected and treated for distribution to the City and the Counties. The sewage flows from the Counties and the City, through the City collection system and back out to the Counties and the State (Back River and Patapsco discharge to inter-jurisdictional State waters).
2. All of the jurisdictions, City, Counties and State, that make up the Baltimore Regional Water System must work together collaboratively to provide a clean, affordable and sustainable water supply and protect our waterways for current and future residents.
3. The City, Counties and the State share the benefits, AND THE RESPONSIBILITY, for properly and equitably managing the water and wastewater systems sustainably for the benefit of the residents of the City and surrounding counties.
4. The responsibility for providing clean drinking water and protecting the aquatic environment is too important and the actions needed are physically too large, complex, and dispersed throughout the jurisdictions to be the full responsibility of any one entity.

B) In order to implement and transition to a regional governance structure as envisioned under Option E as described by the consultant, or an alternative regional governance structure, further evaluation of the threshold issues must be conducted by a dedicated, professional work group. The professional work group should be charged with evaluating the threshold issues and recommending how regional governance should be structured to best address each threshold issue and any other issues the working group identifies.

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

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

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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 pass legislation to establish the working group, identify its goals and timeline for producing recommendations, and provide financial support for this working group that will research and evaluate the threshold issues listed above, ~~involved in the assessment of establishing a regional governance model~~ Regional Water Authority. The appointees to the working group shall have specific expertise and experience in one or more of the following disciplines: water resources management and protection; management and operations of water and wastewater systems; environmental finance; human resources management; environmental justice and equity; or other disciplines relevant to management and operation of a water and wastewater system. ~~have specific expertise or experience in the management and operations of a water and wastewater system.~~ Funding should include the allocation of resources for consultant support and 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 the simple majority of the Board be appointed chosen by City officials the Mayor of the City of Baltimore City, to respect the City's ownership and substantial financial investment in of the acquisition and development of the water & wastewater system and financial contribution.**~~

~~**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.**~~

C) The Task Force recognizes that the ideal solution may not be exactly the same type of regional authority as described by WSP the Task Force's consultant under Option E. Therefore, other types of regional governance models should also be considered by the professional working group.

~~**For example, which may include the State and regional jurisdictions entering could enter into a regional compact, codified in State and local laws and/or ordinances, that creates a Baltimore Regional Water Governance Board ("the Board")...also be considered by the professional working group.**~~

C) 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, Wholesale Partners, 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

Commented [A13]: In the interest of not constraining the considerations of the working group

Commented [A14]: Covered above in the enumerated threshold issues, doesn't account for alternative (federal or other) funding sources that could be used to resolve existing City or County water and wastewater debt

Commented [PKL15]: see comment above

Commented [PKL16]: It should be confirmed if Anne Arundel County is only using the connection as an emergency interconnect at this time given their pursuit to be self-sustaining

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~~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.~~

D) ~~To be successful, this~~the compact creating the Board a regional compact~~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~~complications associated with specific~~the threshold issues. (i.e. the~~Financial, Human Capital and Legal items described above).

Commented [PKL17]: This is still another way of forming a regional authority with complicating factors for operations. Operational decisions are not made at the Board level

~~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.**~~

Commented [PKL18]: This is still anticipating a regional Board where there is no due diligence to suggest this is the best alternative approach.

~~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.**~~

Same comments, the rate setting function is typically reserved for the entity that have fiscal oversight of the utility. Though there are examples of stakeholder participation in the process.

Commented [A19]: In the interest of not constraining the considerations of the working group

C) City-County Rate Board

The establishment of a City-County Rate Board will bring equity to consumers and begin to address the disparity between the current city and county rates. A Rate Board would be established by appointees from the Mayor and the County Executives. The appointees would establish yearly rates for consumers.

Commented [PKL20]: Same comments as above.

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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/>*