



MARYLAND  
LEAGUE OF  
CONSERVATION  
VOTERS



December 20, 2022

The Honorable Brooke Lierman  
Comptroller-Elect of Maryland

Dear Comptroller-Elect Lierman:

As you are aware, the Comptroller of the Treasury serves a critical but underappreciated role in protecting public health and the environment. The Comptroller is not only one of the three parts of Maryland's Executive Branch, but also one of the three parts of the nationally unique state Board of Public Works. In both capacities, the Comptroller of Maryland has been charged with making decisions that can greatly impact the health and sustainability of our people and environment.

Given your track record of providing legislative leadership on matters of public health and environmental protection we believe that we now have a unique opportunity to reinvigorate the Comptroller of Maryland's focus on these issues. The following is a brief summary of a few key objectives that we hope you, as the next Comptroller, can help achieve for the sake of all Marylanders. This list is not intended to be exhaustive, but we hope this can serve as the beginning of a dialog that we and other public service and environmental organizations can have with you and your staff.

*Investing in Maryland's Resilience to Our Future Climate*

One of Maryland's greatest challenges at present is rehabilitating the crumbling infrastructure of our older urban communities. As the wealthiest state in the nation, it is unacceptable that portions of our state's most basic transportation, sanitation, and other infrastructure are in a failing condition. From basement backups, to sinkholes that swallow cars and entire houses, to E.Coli in the drinking water supply, floods that devastate entire neighborhoods, and wastewater treatment plants that dump countless tons of pollution into our waterways - each of these tragic

problems represent a legacy of inadequate investment in one form of infrastructure or another that inevitably harm our most vulnerable communities the most.

This challenge has not been helped by some recent policy decisions, which are many and varied, and often seemingly have little to do with infrastructure. Yet these policies, whether deliberate or not, have yielded a campaign of disinvestment in urban infrastructure. Your continued leadership will be critical to halting this systemic problem. Your voice will be essential to upgrading aging or degraded infrastructure and making sure that new infrastructure decisions are made with equity, public health, and future sustainability in mind.

To this end, we urge a proactive and vigorous approach to oversight of any and all state decisions with respect to funding water, sewer, and green infrastructure in *all* communities, including and especially the Baltimore Metropolitan region. We similarly hope you can ensure future transportation funding decisions are made with adequate attention to climate mitigation and resilience. This begins with a focus on reinvesting in public transit options, such as Baltimore's proposed Red Line.

As Comptroller and a member of the tripartite Board of Public Works, you have nearly unparalleled authority and discretion to oversee the critically important investments in infrastructure that will allow Maryland to survive, and hopefully thrive, as future generations confront the worsening impacts of climate change. We believe this can be accomplished in the following ways:

- ❖ First and foremost, given that the Comptroller has substantial authority over the expenditure of many hundreds of million of capital expenditures annually, the utmost vigilance should be exercised over recommendations on what and where to place the State's finite capital investment funds, and in reviewing past expenditure decisions;
- ❖ Most Comptrollers have not had the subject matter expertise that you possess on many issues that go beyond basic fiscal accounting procedures and we are encouraged that you might carry your valuable perspective on issues of sustainability into your job, thus infusing your staff with fresh energy to carry out the work of the Comptroller in a way that enhances and maximizes public health and the environment;
- ❖ The Comptroller and Board of Public Works should be mindful of the statutory declarations in the Maryland Environmental Policy Act, which declares that the "protection, preservation, and enhancement of the State's diverse environment is a *matter of the highest public priority*" and thus directs our government to ensure that

“environmental amenities and values are given appropriate consideration in planning and decision-making”;

- ❖ The Board of Public Works has oversight authority for innumerable programs across state government, including vital interests like investing in drinking water supply and flood control infrastructure, as well as many other environmental programs from Chesapeake and Atlantic Coastal Bays restoration projects, to mine reclamation, to scrap tire cleanup, giving your staff a great opportunity to ensure these programs are efficient, effective, forward looking, and equitable in their impacts;
- ❖ The Board of Public Works is given independent authority to oversee the administration of water quality financing activities in Maryland, which provides an opportunity for the Comptroller to shine a greater light on how and where hundreds of million of dollars of capital funds for water and sewer infrastructure are administered each year and the impact of those funding decisions on promoting quality of life, sustainability, *and equity*;
- ❖ With regulatory authority over the process of collecting hundreds of statutorily created fees, you will have an opportunity to take a fresh look at whether these fees are adequate (e.g., to address severe staffing shortages), whether they are disproportionately burdensome to some sectors of the economy (e.g., those professions also facing unduly burdensome licensing requirements), and how fee collection processes might be affecting specific communities (e.g., how hardship exemptions are administered) or creating obstacles to other state policy goals (e.g., how collections might impact poverty, homelessness/homeownership, community development, and faith in government);
- ❖ As a member of the Capital Debt Affordability Committee, we trust that you recognize the tremendous opportunity that you have to ensure that short-sighted fiscal decisions do not stand in the way of the ability of Maryland Government to serve the public or pursue our longer-term goals of enabling resilient, sustainable, and thriving communities throughout Maryland - we trust you are the right person to strike the right balance between fiscal prudence and avoiding a perpetuation of disinvestment in certain communities or toward certain policy goals;
- ❖ As the agency with perhaps the best view of statutorily created fees, we hope that the Comptroller can provide leadership in resolving the critical staffing shortages that have increasingly plagued Maryland, as illustrated by a lengthy report on State staffing

adequacy, by spotlighting which fees are inappropriately low (often as a result of failing to account for inflation for decades) and hamstringing agencies' ability to provide critical public services; and

- ❖ We believe that your staff will be in a good position to provide adequate attention to environmental, public health, and equity considerations during the permitting process for transportation and public works infrastructure.

### *Tidal Wetlands Licensing by the Board of Public Works*

One of the primary administrative functions of the Board of Public Works is tidal wetlands licensing. Placing the job of preserving wetlands into the hands of the state's highest administrative body was a deliberate decision, reflective of the General Assembly's elevated priority for protecting wetlands.

Wetlands are widely recognized as one of the single most valuable ecosystems, one that is only becoming more valuable in the face of climate change. But despite a state policy to avoid the loss of tidal wetlands and Maryland's commitment as a signatory to the Chesapeake Bay Agreement, Maryland continues to lose wetlands and the Chesapeake Bay watershed is far behind on meeting its wetlands restoration goals.

Tidal wetlands provide many beneficial functions to coastline communities, including water filtration, storm surge buffers, runoff and pollution controls, flood mitigation, and recreational and aesthetic benefits. The removal or filling of tidal wetlands removes these beneficial functions that are either replaced with manmade infrastructure at high cost, or not replaced at all, leaving these communities to deal with the negative impacts of increased flooding and pollution and decreased water quality and recreational value.

As one of the three members of the Board of Public Works we believe that, as Comptroller, you can help turn this situation around by:

- ❖ Evaluating what resources the Wetlands Administration may need to better do its job and to modernize its functionality given the growing challenge that sea level rise and other climatic changes pose to wetlands preservation, including adjusting any relevant fees as necessary to provide those resources;
- ❖ Asking Wetlands Administration staff about their relationship with the wetlands permitting and compliance staff at the Department of the Environment and how

coordination might be improved, as well as what policy changes are necessary to better protect wetlands;

- ❖ Taking a harder look at the individual licensing decisions before you, never allowing a “rubber stamp” of any inappropriate or excessive wetlands loss, and adopting more prohibitory licensing requirements for the most vulnerable wetlands or wetlands that protect the most vulnerable neighborhoods;
- ❖ Ensuring environmental justice and equity considerations are institutionalized into the process of evaluating or approving Tidal Wetland license applications;
- ❖ Asking Wetlands Administration staff to brief you on public comments received during their recent effort to comprehensively revise the tidal wetlands regulations issued by BPW and urging staff to begin embarking on the process of promulgating regulatory updates that incorporates these proposed reforms and any other necessary ones;
- ❖ Considering the creation of an interagency task force or working group that would include BPW and the Department of the Environment at a minimum, and possibly the Department of Natural Resources or other agencies as well, to explore how closer collaboration and consultation among agencies might improve wetland preservation, create more effective mitigation procedures, and whether any comprehensive reforms might be necessary and appropriate at BPW or MDE;
- ❖ Ensuring that the impacts of losing wetlands are adequately considered in making any licensing decisions, such as how the loss of protections against storm surge, sea level rise, urban flooding, and toxic runoff will impact communities, particularly our most vulnerable ones that are often located in low lying urban areas;
- ❖ Directing staff to consider how to strengthen protections applicable to the process of filling or disturbing wetlands, such as mandatory and heightened erosion and sediment controls in these areas so close to other waters of the State;
- ❖ Requesting staff to provide a critical review of recent enforcement actions taken against licensees and whether additional compliance resources or new enforcement processes may be necessary to more adequately deter violations;
- ❖ Directing staff to develop greater transparency over Maryland’s wetlands resources and impacts from licensing decisions, including through greater online access to public participation opportunities, mapping tools, and a data portal; and

- ❖ Encouraging staff to analyze how Maryland CoastSmart policies and flood risk analytical tools could be integrated with tidal wetland licensing regulations to create a better protection and preservation regime.

Finally, given your tremendous legislative experience, we believe that you also have the opportunity to introduce Departmental legislation to give the General Assembly the ability to adopt more comprehensive reforms on infrastructure investment, wetlands, protections, and other topics. You have the voice, relationships, and legislative know-how to help enact many important reforms as the Comptroller, just as you have for many years as the representative for District 46.

Once again, the recommendations in this letter are certainly not comprehensive and we are happy to continue a discussion with you and your staff about how best the Comptroller can advance sustainability and resilience in Maryland. We are likewise happy to discuss any of these suggestions with you or to connect you with other partners and experts on any of these topics.

We could not be more encouraged to have such a firm believer in the power of good government, public service, and environmental sustainability ascending to the position of Comptroller of Maryland. Congratulations!

Sincerely,

Alice Volpitta, Blue Water Baltimore

Evan Isaacson, Chesapeake Legal Alliance

Kim Coble, Maryland League of Conservation Voters

Matt Pluta, ShoreRivers