

MARYLAND
BOARD OF PUBLIC WORKS

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February 8, 2019

Senate Budget and Taxation Committee
Subcommittee on Education, Business and Administration
Suite 3 West, Miller Senate Office Building
Annapolis, Maryland 21401

Dear Senator Ferguson and Subcommittee Members:

We welcome the opportunity to appear before you on behalf of the Board of Public Works. Today's presentation supports our fiscal year 2020 operating budget. We are pleased that the Department of Legislative Services analysis recommends the Board's proposed operations budget.

BOARD OF PUBLIC WORKS SUMMARY

Board budget overview. The Board's budget comprises two types of appropriations: agency operations and pass-through accounts. Our perennial pass-through grantees, Historic Annapolis Foundation and the Maryland Zoo in Baltimore, are outstanding guardians of State treasures as they maintain State-owned facilities. The Western Maryland Scenic Railroad also seeks operating money for its important contribution to Maryland heritage.

Board operations. As for Board of Public Works operations, the amount budgeted comprises primarily personnel expenses (90% v. 10% for non-personnel expenses). Our mission remains to enable the Board members to carry out the myriad duties involved in stewarding State assets and also to assure public and intra-governmental access to Board deliberations, decision-making, and records, all of which are vitally important to the Board and to Maryland citizens.

RESPONSE TO DLS ANALYSIS
The Contingent Fund; Erroneously-Confined Individuals

The DLS analysis discusses three issues and makes two recommendations. This correspondence addresses the discussion about the Board's Contingent Fund and compensating "erroneously-confined individuals."¹

The Contingent Fund has for decades been an "emergency fund" to which the General Assembly annually appropriates a half million dollars² for the Board to use during the year for matters that arise when the General Assembly is not in session. This fund has traditionally been used to allow the State to respond in a nimble fashion to small-dollar contingencies and emergencies that crop up unexpectedly. It is precisely because the Board of Public Works is a unique institution that the State can appropriately respond to unusual or non-recurring events *up to* half a million dollars.

For the first time in memory, DLS suggests amending the standard language and adding restrictions: "[I]t is recommended that language restricting the contingent fund for operation and grants approved by the General Assembly be adopted."³ The standard language has been unaltered for at least fifty years: the Attorney General approved the language as it appeared in the 1968 budget bill.⁴

The Department of Budget and Management can respond to the proposed DLS policy to "encourage the Administration to use deficiency appropriations for new initiatives."⁵ This correspondent, however, will simply point out that the following expenditures of Contingent Fund monies over the past two decades would have been hindered by this language:

- *Portraits* (Comptroller Goldstein, Treasurers Maurer & Dixon, General Fretterd)
- *Emergencies* (including assisting State college students attacked in Guatemala, Sniper reward, Wye Oak removal, Chalk Point oil spill clean-up, retrieving stranded State college students abroad)
- *Reimbursing State Employees for Legal Fees*
- *Litigation Expenses*
- *Erroneously-Confined Individuals' Compensation*

From this recitation of unanticipated expenses, one can see how fortunate Maryland is to have placed with the Board of Public Works the ability to face and manage important exigencies as they arise.

¹ The Maryland Zoo in Baltimore will submit its response to the analysis separately.

² The amount has over the years been set up to \$1.5 million annually but in the last decade has been \$500,000.

³ DLS Analysis D05.E01 (FY 2020) at page 24.

⁴ 62 Op. Att'y Gen. 528 (1967).

⁵ *Id.*

Particularly problematic in adding the restrictive language that DLS suggests is that the State is facing an increased number of petitions to compensate erroneously-confined individuals.⁶ In the past, that compensation has been awarded in annual installments; the recipient is immediately advanced the first installment from the Contingent Fund. If the Board has the authority to use the Contingent Fund only for grants the General Assembly has pre-approved, the Board will have to wait for the next fiscal year to get money into the petitioners' pockets.

We continue to do an excellent job of managing our resources and meeting the tasks – expected and unexpected – assigned to us.⁷ Thank you for your continued support of our sustained efforts to improve our operations and service to the Board members, the General Assembly, and the public.

Sincerely,

A handwritten signature in black ink that reads "Sheila C. McDonald". The signature is written in a cursive, flowing style.

Sheila McDonald

⁶ *Id.* at 21-23.

⁷ Even thirty years ago, now-retired Judge Wilner noted, "As an institution the board has managed to earn and retain the confidence of the General Assembly, which has heaped more and more responsibility on it." *The Maryland Board of Public Works: A History* by Alan Wilner (1984) at 123-24.