

HOUSE BILL 78

M3
HB 2/21 – APP & ENT

(PRE-FILED)

4lr0382
CF SB 293

By: **Chair, Appropriations Committee (By Request – Departmental – Maryland Environmental Service)**

Requested: September 17, 2023

Introduced and read first time: January 10, 2024

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Environmental Service – Governance and Requirements**

3 FOR the purpose of altering the quorum threshold for the Board of Directors of the
4 Maryland Environmental Service; authorizing the Secretary of the Board to delegate
5 certain responsibilities to an employee of the Service; altering the obligations of the
6 Service after receiving a request for services and after entering into a contract;
7 altering the deadlines for certain audits and reports; repealing a certain audit
8 requirement; and generally relating to the Maryland Environmental Service.

9 BY repealing and reenacting, without amendments,
10 Article – Natural Resources
11 Section 3–101(a) and 3–103(a) and (e)(2)
12 Annotated Code of Maryland
13 (2023 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Natural Resources
16 Section 3–101(j), 3–103(b)(5) and (d), 3–107(b), and 3–126(d) and (h)
17 Annotated Code of Maryland
18 (2023 Replacement Volume and 2023 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Natural Resources**

22 3–101.

23 (a) In this subtitle the following words and terms have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (j) "Municipality" means any county, municipal corporation, sanitary district,
2 State or local unit, **THE DISTRICT OF COLUMBIA, THE UNITED STATES OR ANY OF ITS**
3 **UNITS**, or other public body or unit created or established by or [pursuant to] **IN**
4 **ACCORDANCE WITH FEDERAL**, State, or local law, ordinance, or resolution.

5 3-103.

6 (a) (1) There is a body politic and corporate known as the "Maryland
7 Environmental Service".

8 (2) The Service is an instrumentality of the State and a public corporation
9 by that name, style, and title, and the exercise by the Service of the powers conferred by
10 this subtitle is the performance of an essential governmental function of the State.

11 (b) (5) (i) **[Five] FOUR** members constitute a quorum for the transaction
12 of business of the Board.

13 (ii) The affirmative vote of at least five members is necessary for any
14 action taken by the Board.

15 (d) (1) The Secretary:

16 (i) Shall keep a record of the proceedings of the Board and be
17 custodian of all books, documents, and papers filed with the Service and of the minute book
18 or journal of the Service and its official seal;

19 (ii) May have copies made of all minutes, records, and documents of
20 the Service and certify them to be true copies under the official seal of the Service; and

21 (iii) May, with the approval of the Board, delegate to another member
22 of the Board, during an absence of the Secretary, any duty enumerated in items (i) and (ii)
23 of this paragraph.

24 (2) Any person dealing with the Service may rely on the certificates
25 described in paragraph (1)(ii) of this subsection, and certified copies shall be received as
26 evidence in any court or other tribunal in the State, in the same manner and with the same
27 effect as if the original books, papers, entries, records, or proceedings could be produced.

28 **(3) WITH THE APPROVAL OF THE BOARD, THE SECRETARY MAY**
29 **AUTHORIZE AN EMPLOYEE OF THE SERVICE TO SERVE AS DEPUTY SECRETARY AND**
30 **TO PERFORM THE FUNCTIONS SET FORTH UNDER PARAGRAPHS (1) AND (2) OF THIS**
31 **SUBSECTION ON BEHALF OF THE SECRETARY, SUBJECT TO ANY RESTRICTIONS AND**
32 **CONDITIONS THAT THE SECRETARY ESTABLISHES.**

33 (e) (2) (i) With the approval of the Board, the Treasurer may authorize an

1 employee of the Service to serve as Deputy Treasurer and to disburse money for the
2 purposes of the Service as provided by law, and subject to restrictions and other conditions
3 that the Treasurer establishes.

4 (ii) The Deputy Treasurer shall be covered by a surety bond in
5 accordance with the provisions of law concerning the State Employees Surety Bond
6 Committee.

7 3-107.

8 (b) (1) Notwithstanding any limitations or other provisions to the contrary of
9 Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government
10 Article, or of any charter or local law regulating the procurement or awarding of public
11 contracts, a municipality may enter into contracts with the Service for the purpose of the
12 Service providing any of the projects or services requested by the municipality.

13 (2) (I) As soon as possible after receipt of a duly authorized request from
14 a municipality or person, the Service shall [draft] **PROVIDE A PROPOSAL OR** a proposed
15 contract with the municipality or person in accordance with the provisions of this subtitle
16 specifying the type of project or services to be provided, whether or not a service district
17 will be established, the boundaries and effective date of any service district, and the terms,
18 conditions, and costs under which the project or services will be provided.

19 (II) **EXCEPT AS PROVIDED IN §§ 3-109 AND 3-110 OF THIS**
20 **SUBTITLE, THE SERVICE IS NOT OBLIGATED TO PROVIDE A PROJECT OR SERVICES**
21 **TO A MUNICIPALITY OR A PERSON BEFORE A CONTRACT HAS BEEN EXECUTED BY**
22 **THE PARTIES.**

23 (3) [Upon execution of the contract, the] **THE** Service [as soon as possible]
24 shall [establish any service district provided for in the contract and] provide **ANY**
25 **SERVICES AND PROVIDE**, maintain, and operate [the necessary] A project **IN**
26 **ACCORDANCE WITH THE TERMS IN THE CONTRACT.**

27 (4) For the purposes of this subsection, the express powers contained and
28 enumerated in Division II and Title 10 of the Local Government Article and in the Charter
29 of the City of Baltimore are deemed to incorporate and include the power and authority
30 contained in this subsection.

31 3-126.

32 (d) (1) (i) [1. As soon as practical after the closing of the fiscal year] **ON**
33 **OR BEFORE OCTOBER 31 EACH YEAR**, an audit shall be made of the financial books,
34 records, and accounts of the Service.

35 [2.] (II) The audit shall be made by independent certified
36 public accountants, selected by the Service and licensed to practice in the State.

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1 [3.] (III) The accountants:

2 [A.] 1. May not have a personal interest either directly or
3 indirectly in the fiscal affairs of the Service; and

4 [B.] 2. Shall be experienced and qualified in the
5 accounting and auditing of public bodies.

6 [4.] (IV) The report of audit shall be prepared in accordance
7 with generally accepted auditing principles and point out any irregularities found to exist.

8 [5. A.] (V) 1. The accountants shall report the
9 results of their examination, including their unqualified opinion on the presentation of the
10 financial position of the various funds and the results of the Service's financial operations.

11 [B.] 2. If the accountants are unable to express an
12 unqualified opinion, they shall state and explain in detail the reasons for their
13 qualifications, disclaimer, or opinion including recommendations necessary to make
14 possible future unqualified opinions.

15 [(ii) Subject to subparagraph (i) of this paragraph and either as a
16 separate part of the audit required under subparagraph (i) of this paragraph or as an
17 individual audit, the Service shall obtain an audit that focuses on unauthorized spending,
18 misallocated expenses, lack of conformity with State law or Board policies, and other
19 accounting errors.]

20 (2) The Board shall review an audit prepared under paragraph (1) of this
21 subsection at a meeting of the Board and make any changes or recommendations that the
22 Board considers appropriate based on the audit.

23 (3) The Service shall:

24 (i) Provide to the Department of Budget and Management:

25 1. A copy of an audit prepared under paragraph (1) of this
26 subsection; and

27 2. Any changes or recommendations of the Board based on
28 the audit; and

29 (ii) Post a copy of an audit prepared under paragraph (1) of this
30 subsection on the Service's website, including a link on the homepage of the website to a
31 copy of the most recent audit.

32 (h) (1) [Within the first 90 days of each fiscal year] **ON OR BEFORE**

1 **OCTOBER 31 EACH YEAR**, the Service shall make a report to the Governor and, subject to
2 § 2–1257 of the State Government Article, to the General Assembly of its activities for the
3 preceding fiscal year.

4 **(2)** Each such report shall [set forth the complete operating and financial
5 statement covering the Service’s activities during such year, the salaries for each position
6 of the Service,] **INCLUDE THE COMPLETED FINANCIAL AUDIT REQUIRED UNDER**
7 **SUBSECTION (D) OF THIS SECTION** and a summary of energy activities undertaken by
8 the Service during [such] **THE PRECEDING FISCAL** year.

9 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect
10 October 1, 2024.