

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 78

(Chair, Appropriations Committee)(By Request -
Departmental - Maryland Environmental Service)

Appropriations and Environment and
Transportation

Education, Energy, and the Environment

Maryland Environmental Service – Governance and Requirements

This departmental bill makes changes to the governance and administrative requirements of the Maryland Environmental Service (MES). **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: The bill does not materially affect State finances; MES experiences modest efficiencies from altered auditing and reporting requirements, delegation authority for the board secretary, and the ability to initially provide project proposals instead of contracts.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: MES has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law: MES is an instrumentality of the State and a self-supporting, not-for-profit public corporation that serves State, local, and federal agencies and the private sector through designing, planning, financing, constructing, operating, and monitoring projects for water and wastewater treatment, solid waste management, composting, recycling, dredged material management, hazardous materials cleanup, stormwater services, and renewable energy. The service operates more than 200 water and wastewater treatment facilities as well as solid waste transfer stations,

material recycling facilities, and various other facilities. MES operates on a fee-for-service basis under contract.

Definitions

Current Law: The definition of “municipality” for purposes of the MES statute means any county, municipality, sanitary district, State or local unit, or other public body or unit created or established by or pursuant to State or local law, ordinance, or resolution.

The Bill: The definition of “municipality” for purposes of the MES statute is expanded to include the District of Columbia, the United States, or any of its units.

Delegation of Board Secretary Responsibilities

Current Law: The MES Board of Directors is composed of eight members, seven of which are voting members, as the executive director does not vote. Five members of the board constitute a quorum, and five affirmative votes are necessary for any action taken by the board. The board secretary may not authorize another individual to serve as deputy secretary, although the board treasurer may authorize an MES employee to serve as deputy treasurer, subject to approval of the board.

The Bill: The board secretary, with the approval of the board, may authorize an MES employee to serve as deputy secretary and perform the specified functions of the secretary, subject to any restrictions and conditions the secretary establishes.

Contracts

Current Law: Any municipality or person may request that MES provide the water supply, wastewater purification, solid waste disposal, or energy projects, or any other authorized services, and may enter into contracts with MES for the purpose of MES providing any of the requested projects or services. As soon as possible after receipt of a duly authorized request, MES must draft a proposed contract specifying the type of project or services to be provided, whether or not a service district will be established, the boundaries and effective date of any service district, and the terms, conditions, and costs under which the project or services will be provided.

The Bill: MES is authorized to provide a *proposal*, instead of a *proposed contract*, to a municipality or person specifying the type of project or services to be provided and related terms, conditions, and costs. However, generally, MES is not obligated to provide a project or services to a municipality or person before a contract has been executed by the parties. Provisions related to MES execution of a contract are modified to remove the requirement

that MES implement the contract terms “as soon as possible” and to instead require MES to act in accordance with the contract terms.

Auditing and Reporting Requirements

Current Law: As soon as practical after the closing of the fiscal year, an audit must be made of the financial books, records, and accounts of MES, subject to specified requirements. Additionally, either as a separate part of the financial audit or as an individual audit, MES must obtain an audit that focuses on unauthorized spending, misallocated expenses, lack of conformity with State law or board policies, and other accounting errors. MES must provide an annual summary report to the Governor and the General Assembly within the first 90 days of each fiscal year. The report must set forth the complete operating and financial statement covering MES activities during the fiscal year, the salaries for each MES position, and a summary of energy activities undertaken.

The Bill: Deadlines for the required annual financial audit and annual summary report are standardized to November 15 each year. The requirement to provide an additional audit focusing on unauthorized spending, misallocated expenses, and lack of conformity with State law or board policies is repealed. The annual summary report is modified to include the completed financial audit instead of a similar requirement, and certain salary information is no longer explicitly required.

Background: MES advises that the bill strengthens its organizational structure and governing statute by allowing more flexibility and efficiencies while not sacrificing any of the changes made in the [Maryland Environmental Service Reform Act of 2021](#) (Chapter 72), which have been fully implemented. More specifically:

- The change to the definition of municipality clarifies and simplifies the MES statute so that all of the authorizations and requirements placed on MES apply equally to the entities with which it is authorized to contract.
- Delegating (part-time) board secretary responsibilities to a full-time MES employee authorizes the same type of delegation of authority as is allowed for the board treasurer.
- Allowing MES to provide a proposal, instead of a contract, for each project request reduces the administrative burden on MES, which is represented by the Office of the Attorney General. Often, a price quote or detailed proposal is more than sufficient to begin meaningful discussion.
- Setting specific dates for the two financial reporting requirements removes any ambiguity as to timing.

With respect to the statutory requirement for MES to obtain an audit that focuses on unauthorized spending and other related issues, MES obtained such an audit, which was completed in 2022 at a cost of \$10,000. To the extent that audit was intended to be one time only, repealing the requirement is clarifying. If, however, the additional audit requirement was intended to be ongoing, minimal savings are realized.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 293 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - Maryland Environmental Service) - Education, Energy, and the Environment.

Information Source(s): Maryland Environmental Service; Maryland Department of Aging; Maryland Department of the Environment; Department of Juvenile Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Budget and Management; University System of Maryland; Baltimore City; Harford, Kent, Montgomery, Prince George's, Washington, and Worcester counties; cities of Frederick and Havre de Grace; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services.

Fiscal Note History: First Reader - January 18, 2024
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Revised - Amendment(s) - March 14, 2024
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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Environmental Service – Governance and Requirements

BILL NUMBER: HB 78

PREPARED BY: Jeff Tosi, Director of Government Affairs, MES

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON
MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS