

SENATE BILL 14

M1
HB 1509/08 – ECM & ENV

(PRE-FILED)

9lr0545
CF HB 314

By: ~~Senator Astle~~ **Senators Astle, Della, Exum, Garagiola, Glassman, Kelley, Klausmeier, Middleton, Pugh, Colburn, and Harris**

Requested: August 27, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance and Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2009

CHAPTER _____

1 AN ACT concerning

2 **Maryland Environmental Service – Energy Generation Projects**

3 FOR the purpose of authorizing the Maryland Environmental Service to engage in
4 certain energy projects and services; clarifying the authority of the Service to
5 provide recycling and certain other projects; altering certain exemptions for the
6 Service from certain provisions relating to finance and procurement;
7 authorizing counties and municipalities to enter into certain agreements with
8 the Service without regard to certain limitations or other provisions regulating
9 the procurement or awarding of public contracts; confirming the authority of the
10 Service to establish and collect rates, fees, and charges for certain projects,
11 products, and services; authorizing the Service to collect certain unpaid rates,
12 fees, and charges by tax sale; altering the authority of the Service to issue
13 certain bonds and notes; authorizing counties and municipalities to enter into
14 certain agreements with the Service for energy projects; clarifying the
15 jurisdiction of the Public Service Commission over disputes regarding certain
16 rates, fees, and other charges exacted by the Service; altering certain notice
17 requirements; altering certain reporting requirements of the Service; altering
18 certain definitions; defining a certain term; and generally relating to the
19 Maryland Environmental Service.

20 BY repealing and reenacting, with amendments,

21 Article – Natural Resources

22 Section 3–101, 3–102, 3–103(g), 3–104, 3–105, 3–107, 3–108, 3–113, 3–116
23 through 3–118, 3–120, 3–122, 3–126, 3–127, and 3–128

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2008 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Natural Resources
5 Section 3–129 and 3–130
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2008 Supplement)

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

10 **Article – Natural Resources**

11 3–101.

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

14 (b) “Board” means the Board of Directors of the Maryland Environmental
15 Service.

16 (c) “Bonds” means all bonds or other evidences of indebtedness of the Service
17 other than notes, whether general or limited obligations of the Service.

18 (d) “Cost” as applied to a water supply project, a solid waste disposal project,
19 a wastewater purification project, **AN ENERGY PROJECT**, a service area, a service
20 district, or to any activity undertaken by the Service, includes: (1) the cost of
21 construction or acquisition, including the purchase price of any existing project or the
22 cost of acquiring all or any portion of the right, title, or interest in the project and the
23 amount to be paid to discharge all obligations necessary to vest title to the project or
24 any part of it in the Service or other owner; (2) the cost of any reconstruction,
25 extension, enlargement, alteration, repair, or improvement; (3) the cost of all lands,
26 properties, rights, easements, interests, franchises, and permits acquired; (4) the cost
27 of all labor, machinery and equipment, financing charges, interest prior to and during
28 construction and for such period after completion of construction as the Service deems
29 appropriate; (5) the cost of revenue estimates, engineering and legal services, plans,
30 designs, specifications, surveys, investigations, demonstrations, studies, estimates of
31 cost, other expenses necessary or incident to determining the feasibility or
32 practicability of any such acquisition, improvement, or construction; (6) administrative
33 and overhead expenses, and all expenses necessary or incidental to the financing
34 herein authorized, and to the acquisition, operation, maintenance, improvement,
35 construction of water supply, [liquid and] **LIQUID**, solid waste, **AND ENERGY** project
36 facilities, and the placing of these project facilities in operation, including reasonable
37 provision for working capital; (7) reserves for principal and interest and for extensions,
38 enlargements, additions and improvements. Any obligation or expense incurred prior

1 to the issuance of bonds or notes under the provisions of this title in connection with
2 the foregoing items of cost may be regarded as a part of such costs.

3 (e) The word “county” includes Baltimore City unless otherwise indicated.

4 (f) “Director” means Director of the Maryland Environmental Service.

5 (G) **“ENERGY PROJECT” MEANS ANY SERVICE, FACILITY, SYSTEM, OR**
6 **PROPERTY, REAL OR PERSONAL, USED, USEFUL, OR HAVING PRESENT CAPACITY**
7 **FOR USE IN CONNECTION WITH:**

8 (1) **ENERGY CONSERVATION; OR**

9 (2) **THE PRODUCTION, GENERATION, OR DISTRIBUTION OF**
10 **ENERGY FROM A RENEWABLE ~~OR OTHER ENERGY~~ SOURCE.**

11 [(g)] (H) “Facility” means a physical structure or appurtenance built,
12 constructed, acquired, installed, or established to perform a function or service in
13 connection with a water supply, wastewater [purification or] **PURIFICATION**, solid
14 waste disposal, **OR ENERGY** project whether publicly or privately owned and whether
15 existing or proposed.

16 [(h)] (I) “Liquid waste” means:

17 (1) Stormwater runoff; and

18 (2) Any water-carried wastes or wastes which are liquid in nature
19 created in and carried away, or to be carried away, from residences, institutions,
20 industrial establishments, commercial establishments, or any other public or private
21 building, structure, or facility.

22 [(i)] (J) “Municipality” means any county, municipal corporation, sanitary
23 district, State or local unit, or other public body or unit created or established by or
24 pursuant to State or local law, ordinance, or resolution.

25 [(j)] (K) “Notes” means bond anticipation notes, revenue anticipation notes,
26 and grant anticipation notes of the Service, whether general or limited obligations of
27 the Service.

28 [(k)] (L) “Person” means any natural person, individual, firm, partnership,
29 association, cooperative, **LIMITED LIABILITY COMPANY**, corporation, or other entity.

30 [(l)] (M) (1) “Project” means a solid waste disposal project, a wastewater
31 purification project, [or] a water supply project, **OR AN ENERGY PROJECT**, as the
32 case may be.

1 (2) “Project” includes any service, facility, or property used or useful or
2 having present capacity for future use in connection with:

3 (i) The transporting, transferring, compacting, burying,
4 incinerating, reduction, composting, collection, storage, treatment, utilization,
5 processing, or final disposal of liquid wastes, solid wastes or water, as the case may be;

6 (ii) The conversion of liquid wastes, solid wastes or water, as the
7 case may be, to fuel, steam, electricity, energy, or other resources or the generation of
8 steam, electricity, or other forms of energy from fuel which is derived from, or is
9 otherwise related to, liquid wastes, solid wastes or water, as the case may be;

10 (iii) The reconstruction, converting or otherwise recycling of
11 liquid wastes, solid wastes or water, as the case may be, into material which is not
12 liquid waste, solid waste or water or which is useful or is marketable; or

13 (iv) Any combination of items (i) through (iii) of this paragraph,
14 whether or not such facilities are located on a single site.

15 (3) “Project” also includes:

16 (i) Waste disposal facilities, pollution control facilities, and
17 facilities for generating and furnishing electric energy or gas or other forms of energy
18 which can be financed by bonds the interest on which is exempt from income tax under
19 the Internal Revenue Code of 1986, as amended, whether such interest would have
20 been tax exempt at the time of the enactment of this subtitle or of any amendment
21 thereto; and

22 (ii) Any facilities and properties within the definition of
23 “project”, “solid waste disposal project”, “wastewater purification project”, [or] “water
24 supply project”, **OR “ENERGY PROJECT”** set forth in this subsection, whether or not
25 such facilities or properties can be financed by bonds the interest on which is tax
26 exempt under the Internal Revenue Code of 1986, as amended, it being the purpose
27 and intent of this subtitle that the terms “project”, “solid waste disposal project”,
28 “wastewater purification project”, [and] “water supply project”, **AND “ENERGY
29 PROJECT”** be liberally construed so as to effectuate the purposes of this subtitle.

30 (4) “Project”, “solid waste disposal project”, “wastewater purification
31 project”, [and] “water supply project”, **AND “ENERGY PROJECT”** include land,
32 buildings, structures, machinery, equipment, rail or motor vehicles, barges, boats, and
33 all properties and rights therein and appurtenances thereof, rights-of-way,
34 franchises, easements, and other interests in land, all land and facilities that are
35 functionally or administratively related and subordinate to the solid waste disposal
36 project, wastewater purification project, [or] water supply project, **OR ENERGY
37 PROJECT**, as the case may be, and all patents, licenses, and other rights necessary or
38 useful in the **PLANNING, DEVELOPMENT, [construction] CONSTRUCTION**, or

1 operation of a solid waste disposal project, wastewater purification project, [or] water
2 supply project, **OR ENERGY PROJECT**.

3 [(m)] (N) “Service” means the Maryland Environmental Service.

4 [(n)] (O) “Service district” means a geographic area established by the
5 Service, after consultation with the municipalities affected, for the purpose of
6 providing water supply projects, wastewater purification projects or solid waste
7 disposal projects. Service districts may encompass areas containing projects of the
8 Service as well as nonduplicating, noncompetitive projects owned and operated by
9 municipalities or persons. Service districts shall be based upon approved State–county
10 master water and sewerage plans or solid waste disposal plans, if any, adopted
11 pursuant to the Environment Article, but they may also take account of other plans
12 and studies.

13 [(o)] (P) “Service region” means a geographic area which the Maryland
14 Environmental Service designates and within which the Director, after consultation
15 with the municipalities affected, causes surveys, plans, studies, and estimates to be
16 made for the purpose of determining the most dependable, effective, and efficient
17 means of providing services through water supply projects, solid waste disposal
18 projects, or wastewater purification projects. Service regions shall be based upon needs
19 set forth in approved State–county master water and sewerage plans, or solid waste
20 disposal plans, if any, adopted pursuant to the Environment Article, but they may also
21 take account of other plans and studies.

22 [(p)] (Q) “Solid waste disposal project” means any service, facility, or real or
23 personal property used or useful or having present capacity for future use in
24 connection with the measurement, management, [collection or] **COLLECTION**,
25 disposal, **PREVENTION, OR RECYCLING** of solid wastes by any means, including
26 disposal [through the production of], **RECOVERY, OR REUSE TO PRODUCE** energy or
27 products, or otherwise.

28 [(q)] (R) “Solid wastes” means all waste materials, whether solid, liquid, or
29 gas, including liquid wastes. The term includes garbage, rubbish, ashes, incinerator
30 residue, wastewater treatment residue, street cleanings, dredged materials, dead
31 animals, demolition and construction debris, household appliances, **HAZARDOUS**
32 **MATERIALS**, automobile bodies, offal, paunch manure, methane or any other gases,
33 sewage sludge and solid or gaseous waste materials from [individual,] commercial,
34 agricultural, **RESIDENTIAL**, industrial, or community activities.

35 [(r)] (S) “Wastewater purification project” means any service, facility, or
36 property, real or personal, used or useful or having present capacity for future use in
37 connection with the **MEASUREMENT, MANAGEMENT, PREVENTION, REDIRECTION,**
38 [collection] **COLLECTION**, or treatment of liquid wastes.

1 [(s)] (T) “Water supply project” means any service, facility, or property, real
2 or personal, used, useful, or having present capacity for future use in connection with
3 water supply, **PROTECTION**, and distribution, including any water treatment facility
4 or property and rights therein and appurtenances thereto.

5 3–102.

6 (a) To assist with the preservation, improvement, and management of the
7 quality of air, land, [and] water, **AND NATURAL** resources, and to promote the health
8 and welfare of the citizens of the State, it is the intention of the General Assembly in
9 enactment of this subtitle to provide for dependable, effective, and efficient water
10 supply and purification and disposal of liquid and solid wastes, to encourage
11 reductions in the amount of waste generated and discharged to the environment and
12 the generation of energy and the recovery of useable resources from such waste to the
13 extent practicable; **TO PROMOTE THE CONSERVATION OF ENERGY USAGE AND TO**
14 **ENABLE AND PROVIDE FOR THE PRODUCTION OF ENERGY FROM SOLID WASTES**
15 **AND RENEWABLE ~~AND OTHER~~ SOURCES**; to encourage private sector participation
16 in environmental protection; and to serve its political subdivisions and economic
17 interests. For these purposes, the General Assembly creates an instrumentality of the
18 State constituted as a body politic and corporate to provide water supply [and waste]
19 **WASTEWATER** purification and disposal, **SOLID AND HAZARDOUS WASTE**
20 **DISPOSAL, AND ENERGY CONSERVATION, GENERATION, AND TRANSMISSION**
21 services in compliance with State **AND FEDERAL** laws, regulations, and policies
22 governing air, land, and water pollution to public and private instrumentalities, and
23 with safeguards to protect the autonomy of the political subdivisions and the rights of
24 the private entities it serves. It is also the intent of the General Assembly that the
25 instrumentality may not participate in competitive bidding with the private sector to
26 provide its services.

27 (b) This subtitle shall be liberally construed to effect its purposes. However,
28 nothing contained in it shall restrict any control which the Departments of the
29 Environment and Natural Resources, or of their units, are empowered to exercise over
30 any water supply, wastewater [purification or] **PURIFICATION**, solid waste disposal,
31 **OR ENERGY** project authorized by this subtitle, nor interfere with or affect the
32 operation of existing wastewater purification, water supply, [or] solid waste disposal,
33 **OR ENERGY** projects found by the Secretary of the Environment to be adequately and
34 lawfully operated by municipalities having jurisdiction or responsibility for them,
35 except by their express consent and agreement. **NOTHING IN THIS SUBTITLE SHALL**
36 **RESTRICT ANY CONTROL WHICH THE PUBLIC SERVICE COMMISSION IS**
37 **EMPOWERED TO EXERCISE OVER ANY ENERGY PROJECT AUTHORIZED BY THIS**
38 **SUBTITLE.**

39 (c) Nothing in this subtitle shall be construed to alter, change, or modify the
40 zoning or land use planning authority of any municipality or public instrumentality or
41 cause a municipality or public instrumentality to take action inconsistent with the

1 county solid waste management plan required under Title 9, Subtitle 5 of the
2 Environment Article.

3 3-103.

4 (g) (1) The Service is exempt from the provisions of [Part III of Subtitle 3
5 and] Subtitles [4, 5, 6, and 7] **3, 4, 5, AND 7** of Title 4 of the State Finance and
6 Procurement Article.

7 (2) The Service is exempt from the provisions of Division II of the
8 State Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14,
9 Subtitle 4 of Title 12, Title 16, and Title 17 of the State Finance and Procurement
10 Article.

11 (3) (i) Except as otherwise provided in this paragraph, all
12 procurements by the Service for materials, equipment, services, or supplies performed
13 or furnished in connection with the planning, development, design, equipping,
14 construction, or operation of any project owned or controlled by the Service, shall be
15 awarded in accordance with rules and regulations adopted pursuant to the
16 Administrative Procedure Act.

17 (ii) The Service may procure materials, equipment, services, or
18 supplies by utilizing:

19 1. Competitive sealed bids;

20 2. Competitive sealed proposals;

21 3. Sole source procurement;

22 4. Intergovernmental cooperative purchasing
23 agreements;

24 5. A small procurement process, if the procurement is
25 estimated by the Service to result in an expenditure of \$25,000 or less; or

26 6. An emergency procurement process, if the
27 procurement is necessary to avoid or to mitigate serious damage to public health,
28 safety, or welfare.

29 (4) The Service may adopt rules and regulations to provide a process
30 to resolve disputes between the Service and its contractors, that may include
31 alternative dispute resolution by the parties to the dispute.

32 3-104.

1 (a) The Service has all powers necessary for carrying out the purposes of this
2 subtitle, including the following rights and powers set forth in this section.

3 (b) To have perpetual existence as a corporation.

4 (c) To adopt bylaws, rules, regulations, policies, and procedures for the
5 regulation of its affairs and conduct of its business.

6 (d) To adopt an official seal and alter it.

7 (e) To maintain one or more offices at a place or places it chooses.

8 (f) To appoint agents and employees, to prescribe their duties, and fix their
9 compensation as set forth in this subtitle.

10 (g) To sue and be sued.

11 (h) To acquire, construct, reconstruct, rehabilitate, improve, maintain, lease
12 as lessor or as lessee, repair and operate projects within or without the State. The
13 Service shall establish reasonable rules and regulations for the use of any project. It
14 may acquire, purchase, hold, lease as lessee, and use any franchise and any property,
15 real, personal or mixed, tangible or intangible, or any interest therein necessary to
16 carry out the purposes of the Service. It may sell, lease as lessor, transfer, and dispose
17 of any property or interest in it that it has acquired.

18 (i) To acquire by gift, purchase, or the exercise of the right of eminent
19 domain in the manner prescribed by law lands, structures, real or personal property
20 rights, rights-of-way, franchises, easements, and other interests in lands, including
21 lands lying underwater and riparian rights which are located within and without the
22 State as it considers necessary or convenient for the construction or operation of a
23 project, upon terms and at prices considered by the Service to be reasonable and can
24 be agreed upon by the Service and the owner of the interest, and to take title to the
25 interest in the name of the Service. At any time ten days after the return and
26 recordation of the verdict or award in any condemnation proceeding, the Service may
27 take possession of the property condemned, upon paying to the clerk of the court the
28 amount of the award and all costs taxed to that date, notwithstanding any appeal or
29 further proceeding by defendant. At the time of the payment, the Service shall give its
30 corporate undertaking to abide by any judgment in any appeal or further proceedings.

31 (j) To borrow money and issue bonds or notes for the purpose of paying all or
32 any part of the cost of any one or more projects or for any other purpose of the Service;
33 to provide funds to be paid into any debt service reserve fund; to secure the payment of
34 the bonds or notes or any part thereof by pledge or deed of trust of all or any part of its
35 revenues or other available money or by pledge, mortgage, or deed of trust of any one
36 or more facilities or properties; to combine projects for financing purposes and to make
37 agreements with or for the benefit of the purchaser or holder of the bonds or notes,
38 with the issue of the bonds or notes, whether issued or to be issued, as the Service may

1 deem advisable; and in general to provide for the security of the bonds or notes and the
2 rights of their holders.

3 (k) To combine, after consultation with the municipalities affected, one or
4 more water supply, wastewater purification, [or] solid waste disposal, **OR ENERGY**
5 project with any other project as a single system for the purpose of operation or
6 financing.

7 (l) To fix, alter, charge, and collect rates, fees, and charges for the use of or
8 for the services, **PRODUCTS, OR ENERGY** furnished **OR PRODUCED** by [its projects]
9 **THE SERVICE.**

10 (m) To enter into contracts with the federal or any state government, or any
11 unit, instrumentality, or subdivision thereof, or with any municipality or person
12 within or without the State, providing for or relating to the furnishing of services to or
13 the facilities of any project of the Service, or in connection with the services or
14 facilities provided by any water supply project, solid waste project, [or] wastewater
15 purification project, **OR ENERGY PROJECT** owned or controlled by the other
16 contracting party, including contracts for the construction and operation of any project
17 in the State or in any other state. These contracts may make provision for:

18 (1) The payment by the other contracting party to the Service of a
19 fixed amount for the collection, processing, treatment, storage, transporting, **USE**, or
20 disposal of a stated amount of solid waste (whether or not the stated amount of solid
21 waste is collected, processed, treated, stored, transported, or disposed of), or of all or
22 any portion of the operating expenses of one or more projects;

23 (2) The utilization by the other contracting party of one or more
24 projects for the processing, treatment, storage, transporting, **USE**, or disposal of all or
25 any portion of solid waste over which such party has control;

26 (3) The collection by the other contracting party or its agents or by
27 agents of the Service of fees, rates, or charges for the services and facilities rendered to
28 a municipality or its inhabitants, and for the enforcement of delinquent charges for
29 such services and facilities; or

30 (4) The abandonment, restriction, or prohibition of the construction or
31 operation of competing facilities. The provisions of any contract with a municipality
32 shall be deemed to be for the benefit of bondholders or noteholders as designated by
33 the Service and may be made irrevocable so long as any bonds or notes of the Service
34 secured by such contract are outstanding.

35 (n) (1) To make any contract or agreement the Service determines to be
36 necessary or incidental to the performance of its duties and to the execution of the
37 purpose of and the powers granted by this subtitle, including contracts with the
38 federal or any state government, or any unit, instrumentality, or municipality thereof,
39 or with any person, on terms and condition the Service approves.

1 (2) The Service may make contracts or agreements relating to:

2 (i) The use by the other contracting party or the inhabitants of
3 any municipality of any project acquired, constructed, reconstructed, rehabilitated,
4 improved, or extended by the Service under this subtitle or the services therefrom or
5 the facilities thereof;

6 (ii) The use by the Service of the services or facilities of any
7 water supply system or project, solid waste system or project, or liquid waste system
8 or project, not owned or operated by the Service;

9 (iii) The sale of any fuel, steam, electricity, energy, **WASTE**
10 **PRODUCT**, or other material or resource derived from the operation of any project;

11 (iv) The acceptance, processing, treatment, **USE**, and disposal of
12 solid wastes by one or more projects; or

13 (v) The employment or retention of consulting and other
14 engineers, superintendents, financial advisors, attorneys, accountants, and other
15 employees, advisors, or agents as in the judgment of the Service are necessary or
16 desirable.

17 (3) The contracts and agreements of the Service may provide for the
18 collecting of fees, rates, or charges for the projects provided by the Service and for the
19 enforcement of delinquent charges for the projects. The provisions of any contract or
20 agreement of the Service, and of any ordinance or resolution of the governing body of a
21 municipality enacted pursuant thereto, shall be deemed to be for the benefit of
22 bondholders or noteholders.

23 (o) To enter upon and excavate any municipal street, road, alley, highway, or
24 any other public way for the purpose of installing, maintaining, and operating a water
25 supply, solid waste disposal, [or] wastewater purification, **OR ENERGY** project
26 provided for under this subtitle. The Service may construct, reconstruct, rehabilitate,
27 or extend in the street, road, alley, or highway, a water supply facility, sewer or storm
28 drain, **ENERGY TRANSMISSION FACILITY**, or any appurtenance thereof, without a
29 permit or the payment of a charge subject, however, to reasonable regulation
30 established by the governing body of any municipality having jurisdiction in the
31 particular respect. If any municipal street, road, alley, or highway is to be disturbed,
32 the governing body shall be notified within a reasonable period of time, and the street,
33 road, alley, or highway shall be repaired and left by the Service in the same condition
34 as, or in a condition not inferior to, that existing before the street, road, alley, or
35 highway was torn up. The Service shall bear every incidental cost.

36 (p) To enter upon lands, waters, or premises as is necessary or desirable for
37 the purposes of making surveys, soundings, borings, and examinations to accomplish
38 any purpose authorized by this subtitle. The Service is liable for actual damage done.

1 (q) To make application for, receive, and accept from any state or federal
2 government, or any unit, instrumentality, or subdivision thereof, grants for or in aid of
3 the planning, financing, construction, acquisition, maintenance, or operation of any
4 project, and to receive and accept aid or contributions from any source of money,
5 property, labor, or other things of value, to be held, used, and applied only for the
6 purpose for which the grants and contributions are made in the furtherance of the
7 purposes of this subtitle. In those cases involving federal and State grants, including,
8 but not limited to, grants administered by the Department of the Environment for the
9 collection and treatment of sewage and industrial wastes under the Sanitary Facilities
10 Fund, in Title 9 of the Environment Article, the Service shall be eligible the same as a
11 municipality.

12 (r) To make directly, or through the hiring of consultants, any plans,
13 surveys, investigations, and studies relating to water supply, liquid and solid wastes
14 transportation, purification, disposal techniques, recycling, **ENERGY PRODUCTION**
15 **AND TRANSMISSION, CONSERVATION OF RESOURCES**, and management methods
16 or the effects of these techniques, and methods, in order to improve or evaluate the
17 effectiveness or economy of its services and operations. The Service may charge in
18 whole or in part the costs of the investigations and studies against one or more
19 projects or Service districts, or it may include them in whole or in part in its general
20 operating expenses depending on the expected applicability of the studies and
21 investigations. The Service may supplement grants or other aids received from the
22 federal government or from other sources to assist in carrying out the purposes of this
23 subtitle. Consultants hired under this subsection may not be deemed to be providing
24 architectural or engineering services as those terms are defined in § 11-101 of the
25 State Finance and Procurement Article.

26 (s) To conduct hearings and investigations for the furtherance of the
27 purposes of this subtitle.

28 (t) To take and hold title to any project that may be transferred to the
29 Service, and to assume jurisdiction over and provide for the maintenance and
30 operation of the project, all on such terms as may be mutually agreed upon between
31 the Service and the transferor. The Service may contract with any municipality to
32 assume the payment of the principal of and interest on obligations or indebtedness of
33 such municipality incurred in connection with any project and may undertake to
34 operate any project in such a manner as to provide for the payment of all outstanding
35 obligations or indebtedness applicable to the project and the interest thereon and to
36 transfer to the appropriate municipality an amount equal to the debt service payments
37 prior to the applicable payment date. Subject to the approval of the Board of Public
38 Works, the State may lease, lend, grant, or otherwise convey to the Service any
39 property that is necessary for the purposes of this subtitle.

40 (u) To do all things necessary to carry out its purposes and for the exercise of
41 the powers granted in this subtitle.

1 (v) Except as provided in §§ 3–109 and 3–110 of this subtitle, the Service
2 does not have any power to construct, establish, or operate any new solid waste
3 disposal project within the boundaries of any county or municipal corporation without
4 the express consent of the governing body of the county or municipal corporation.

5 (w) To permit a municipality to construct, operate, maintain, expand,
6 relocate, replace, renovate, or repair facilities provided for in this subtitle when the
7 Service certifies that it is not in a position to provide the necessary construction,
8 operation, maintenance, expansion, relocation, replacement, renovation, or repair of
9 facilities within the municipality. Notwithstanding other provisions in this subtitle
10 and limited to the circumstances in this subsection, a municipality shall finance
11 construction, operation, maintenance, expansion, relocation, replacement, renovation,
12 or repair of facilities in accordance with its statutory authority, including the receiving
13 of State and federal grants if available. The municipality may construct, operate,
14 maintain, expand, relocate, replace, renovate, or repair these facilities.

15 (x) In making plans, surveys, studies, and investigations under this subtitle,
16 the Service shall include in its findings its statement of the impact that a project may
17 have on the site on which the project is to be located if that site has cultural, historic,
18 or social significance.

19 (y) To create, with the approval of the Board, private corporations for
20 purposes consistent with this subtitle.

21 (z) To exercise all the corporate powers granted Maryland corporations
22 under the Maryland General Corporation Law.

23 3–105.

24 (a) The Service is responsible for carrying out the following general activities
25 subject to the limitations stated in this section.

26 (b) Planning, integrating, and establishing geographic service regions and
27 districts, in cooperation with affected municipalities and based upon approved
28 State–county master plans for water and sewerage, and solid waste disposal as
29 provided in the Environment Article, as well as other plans and studies permitted by
30 this subtitle.

31 (c) Research and developmental studies and investigations into improved
32 methods and techniques of water supply, liquid wastes, [and] solid wastes, **AND**
33 **ENERGY GENERATION**, acquisition, transportation, processing, recycling,
34 purification, disposal and management, and technical consultation and assistance to
35 design, management, and operation personnel of the Service and, pursuant to an order
36 or request, to appropriate municipalities or persons possessing similar responsibilities.

37 (d) To the extent appropriate in each instance, acquisition, design,
38 construction, reconstruction, rehabilitation, improvement, operation, maintenance,

1 and repair of a water supply project, wastewater purification project, and solid waste
2 disposal project, pursuant to an order of the Secretary of the Environment as further
3 provided in §§ 3–109 and 3–110 of this subtitle; or pursuant to a mandatory agreement
4 to provide requested services, as provided in § 3–107 of this subtitle; or pursuant to an
5 approved five–year plan, as provided in § 3–106 of this subtitle.

6 (e) Except upon request of a municipality and pursuant to a contract
7 between the Service and the municipality, the Service may not acquire, construct,
8 operate, or establish a wastewater purification project or solid waste disposal project,
9 as the case may be, for (1) any area or district which, in the determination of the
10 Secretary of the Environment, is receiving adequate service from a project owned by a
11 municipality and operated in compliance with applicable laws and regulations; (2) any
12 area or district which, in the determination of that Secretary, will receive, within a
13 reasonable time, adequate service from a project owned by a municipality and
14 operated in compliance with applicable laws and regulations; or (3) dredging or
15 dredged material disposal projects.

16 (f) Execute the powers and perform the duties set forth in Title 7, Subtitle 4
17 of the Environment Article, including the financing, acquisition, leasing, and operation
18 of hazardous waste disposal facilities.

19 3–107.

20 (a) Any municipality or person may request the Service to provide the water
21 supply, wastewater [purification or] **PURIFICATION**, solid waste disposal, **OR**
22 **ENERGY** projects, **OR ANY OTHER SERVICES**, authorized by this subtitle. The request
23 shall set forth the type of proposed project **OR SERVICES** to be furnished and the
24 proposed boundaries of the area within which a project [is] **OR SERVICES ARE**
25 requested.

26 (b) **NOTWITHSTANDING ANY LIMITATIONS OR OTHER PROVISIONS TO**
27 **THE CONTRARY OF ARTICLE 23A, ARTICLE 25A, OR ARTICLE 25B OF THE**
28 **CODE, OR OF ANY CHARTER OR LOCAL LAW REGULATING THE PROCUREMENT**
29 **OR AWARDING OF PUBLIC CONTRACTS, A MUNICIPALITY MAY ENTER INTO**
30 **CONTRACTS WITH THE SERVICE FOR THE PURPOSE OF THE SERVICE**
31 **PROVIDING ANY OF THE PROJECTS OR SERVICES REQUESTED BY THE**
32 **MUNICIPALITY.** As soon as possible after receipt of a duly authorized request from a
33 municipality or person, the Service shall draft a proposed contract with the
34 municipality or person in accordance with the provisions of this subtitle specifying the
35 type of project **OR SERVICES** to be provided, whether or not a service district will be
36 established, the boundaries and effective date of any service district, and the terms,
37 conditions, and costs under which the project **OR SERVICES** will be provided. Upon
38 execution of the contract, the Service as soon as possible shall establish any service
39 district provided for in the contract and provide, maintain, and operate the necessary
40 project. **FOR THE PURPOSES OF THIS SUBSECTION, THE EXPRESS POWERS**
41 **CONTAINED AND ENUMERATED IN ARTICLES 23A, 25A, AND 25B OF THE CODE**

1 **AND IN THE CHARTER OF THE CITY OF BALTIMORE ARE DEEMED TO**
2 **INCORPORATE AND INCLUDE THE POWER AND AUTHORITY CONTAINED IN THIS**
3 **SUBSECTION.**

4 (c) The charges levied against a service district shall be reduced by the full
5 amount of federal and State grants which the Service receives and is entitled to retain
6 to defray the cost of any project within the service district.

7 (d) Existing facilities providing service of the type requested, including all
8 rights, easements, laboratory facilities, vehicles, records, and all other property,
9 equipment, and furnishings necessary and normally associated with the operation of
10 the facility, shall be transferred to the sole ownership of the Service on the date a
11 service district comes into existence unless the Service determines that it not be so
12 transferred. Compensation for existing projects may be based on the original cost of
13 the project minus an allowance for depreciation, or on other terms and conditions
14 satisfactory to the municipality or person transferring the project. All costs and
15 obligations assumed by the Service incidental to the transfer of ownership shall be
16 included in the charge levied against the service district.

17 (e) At the request of any person or municipality having the responsibility for
18 the collection of liquid waste or solid waste, the Service may enter into a contract to
19 provide management and operation of waste collection services in any service district
20 as an adjunct to the mandatory provision of projects as set forth in subsections (a)
21 through (d) of this section, if (1) as a condition to the provision of management and
22 operation of waste collection services, the municipality or person enters into a contract
23 upon terms the Service determines reasonable; and (2) the Service and the
24 municipality or person requesting collection services determines by agreement from
25 time to time the charges including the amount and frequency of payments to the
26 Service.

27 3-108.

28 (a) (1) In calculating charges for water supply, wastewater [purification
29 and] **PURIFICATION**, solid waste disposal, **AND ENERGY** projects, **PRODUCTS**, or
30 services or in determining the costs to be levied against a municipality, person, or
31 property in a service district established pursuant to this subtitle, the Service shall
32 require that the charges reflect the full costs of [projects] **PROVIDING THE**
33 **PROJECTS, PRODUCTS, OR SERVICES.**

34 (2) The charges and costs to be levied against any particular
35 municipality, person, or property located within a service district shall take account of:

36 (i) Whether the property is eligible for water or sewerage
37 service in accordance with the approved State-county master plans for water and
38 sewerage adopted under Title 9 of the Environment Article;

1 (ii) The value and capacity of any existing facility transferred by
2 the municipality or person to the Service; and

3 (iii) The costs and obligations assumed by the Service incidental
4 to the transfer of the facility.

5 (3) To the extent deemed reasonable and practicable by the Service,
6 charges for **SOLID WASTE OR WASTEWATER PURIFICATION** projects or services also
7 shall be based on but not necessarily limited to a formula reflecting the volume and
8 characteristics of the wastes as they influence transportation, purification, final
9 disposal, and time pattern of discharge.

10 (4) (i) Before establishing or adjusting charges in a service district,
11 the Service shall publish notice of the proposed charges, at least once a week for 2
12 weeks, in at least one newspaper of general circulation in the municipality in which
13 the service district is located and hold a public hearing on the proposed charges.

14 (ii) The published notice shall be at least 1/4 page in size, and
15 use at least 18 point type. The notice may not be placed with legal notices or classified
16 advertisements. The headline of the notice shall be in bold print, with all letters
17 capitalized. The text of the notice, other than the headline, shall be in upper and lower
18 case letters.

19 (iii) The charges shall become effective on the date set by the
20 Service. The Service may, by resolution of the Board, provide that the charges are
21 chargeable against all or part of the lots or parcels of land in the service district and
22 constitute a first lien on such property. The resolution may establish reasonable times
23 and methods of collection of the charges, which may be levied and collected by the
24 Service and have the same priority and rights and bear the same interest and
25 penalties and in every respect be treated the same as taxes of the State. The charges
26 may be levied and collected notwithstanding the absence of a contract between the
27 Service and the municipality, person, or property against whom the charge is imposed.

28 (b) If a municipality fails to pay the Service for projects or services provided
29 pursuant to this subtitle within 60 days of the due date, as established by contract, all
30 State funds, or that portion of them required, relating to the income tax, the tax on
31 racing, the recordation tax, the tax on amusements and the license tax thereafter to be
32 distributed to the municipality shall be paid by the Comptroller of Maryland directly
33 to the Service until the amount paid to the Service is equal to the amount due the
34 Service by the municipality.

35 (c) If a person fails to pay the Service for projects **OR SERVICES** provided
36 [by] **IN ACCORDANCE WITH** this subtitle within 60 days of the due date, as
37 established by the Service, the unpaid [bill becomes a] **AMOUNT CONSTITUTES A**
38 **STATUTORY** lien against the **REAL** property served, [if it is recorded and indexed as
39 provided in this subtitle, and] shall be referred to the Attorney General for collection,
40 **AND MAY BE COLLECTED THROUGH A TAX SALE.**

1 (d) The governing body of any county may charge the Service a fee for final
2 disposal of solid waste at any solid waste disposal project located in that county
3 provided that any fees charged the Service are not greater than those charged other
4 users of any solid waste disposal project.

5 [(e) Unless otherwise agreed in a contract, contracts for projects shall be
6 reviewed at least biennially by the Service and by the other contracting party, but a
7 contract may be reviewed upon the request of either party at any time for the purpose
8 of renegotiating rates, fees, or other charges exacted by the Service.]

9 3-113.

10 (a) If any officer whose signature or a facsimile of whose signature appears
11 on any bonds [or coupons] or notes ceases to be the officer before the delivery of the
12 bonds or notes, the signature or facsimile is nevertheless valid and sufficient for all
13 purposes as if he had remained in office until delivery.

14 (b) Notwithstanding any other provision of this title or any recitals in any
15 bonds and notes issued hereunder, all bonds and notes shall be deemed to be
16 negotiable instruments under the laws of the State.

17 (c) The bonds may be issued [in coupon or] in registered form[, or both, and
18 provision may be made for the registration of any coupon bonds as to principal alone
19 and also as to both principal and interest, for the reconversion into coupon bonds of
20 any bonds registered as to both principal and interest, and for the interchange of
21 coupon and registered bonds] **OR IN SUCH OTHER FORM AS DETERMINED BY THE**
22 **BOARD.** Provision may also be made for the replacement of bonds which become
23 mutilated or are lost or destroyed.

24 (d) The bonds and notes are exempt from the provisions of §§ 8-206 and
25 8-208 of the State Finance and Procurement Article. The Service may sell its bonds
26 and notes in the manner, either at public or at private sale, and for the price it
27 determines.

28 (e) The bonds and notes may be issued by the Service without obtaining the
29 consent of any unit of the State government, and without any other proceedings or the
30 happening of any other conditions or things than those specifically required
31 hereunder.

32 3-116.

33 The Service, by resolution adopted by a majority of the Board, may:

34 (1) Issue, prior to the preparation of definitive bonds, interim receipts
35 or temporary bonds[, with or without coupons,] exchangeable for definitive bonds
36 when these bonds have been executed and are available for delivery;

1 (2) Issue and sell its bond anticipation notes, revenue anticipation
2 notes, or grant anticipation notes the principal of and interest on these notes to be
3 made payable to the bearer or registered holder out of the first proceeds of the sale of
4 any bonds, revenues or grants, as the case may be, issued under this subtitle, or from
5 any other available money of the Service, but the authorizing resolution may make
6 provision for the issuance of bond anticipation notes in series as funds are required
7 and for the renewal of these notes at maturity, with or without resale. The issuance of
8 [bond anticipation] notes and the details thereof, the rights of the holders, and the
9 rights, duties, and obligations of the Service in respect thereto, are governed by the
10 provisions of this title relating to bonds, insofar as these provisions may be applicable.
11 A grant anticipation note may be issued or sold only after receipt of written
12 commitment of the federal or State government or agency making the grant; and

13 (3) Issue and sell its revenue bonds or notes [in the nature of
14 industrial development bonds, whether the bonds or notes be pollution control revenue
15 bonds, solid waste disposal revenue bonds, or other types of industrial development
16 revenue bonds,] for the purpose of borrowing money to lend to any person or
17 municipality for the accomplishment by such person or municipality of a project or
18 projects. The principal of and interest on the bonds or notes may be made payable out
19 of:

20 (i) The revenues received by the Service from such person or
21 municipality or otherwise received in connection with such project;

22 (ii) Any property pledged or mortgaged as security for such
23 bonds or notes; or

24 (iii) Any other sources designated by the Service. The
25 authorizing resolution may make provision for the issuance of such bonds or notes in
26 series as funds are required. The issuance of bonds or notes and the details of the
27 issuance, the rights of the holders of the bonds or notes, and the rights, duties, and
28 obligations of the Service of the bonds and notes shall be governed by the provisions of
29 this subtitle relating to bonds insofar as those provisions are applicable. The Service
30 may make or approve such provisions in connection with the issuance of the bonds or
31 notes authorized by this subsection, including the security for such bonds or notes, the
32 priority of the bonds or notes with regard to such security (which priority may be
33 senior, or subordinated to, or on a parity with, other obligations) as the Service may
34 deem necessary or appropriate to effectuate the acquisition, construction, or provision
35 of a project by any person or municipality. However, the Service does not have power
36 to take any action in connection with the issuance of bonds or notes pursuant to this
37 paragraph which would create any obligation on the part of any municipality without
38 the consent of the municipality to the obligation.

39 3-117.

1 (a) Bonds and notes authorized to be issued under the provisions of this
2 subtitle by resolution of the Board may be secured by a trust agreement by and
3 between the Service and a corporate trustee, which may be any trust company, or
4 bank having trust powers, within or without the State. The trust agreement, or the
5 authorizing resolution, may pledge or assign all or any part of the revenues of the
6 Service or of any project or other available funds of the Service or pledge, convey, or
7 assign any one or more facilities or properties. Any trust agreement or resolution
8 authorizing the issuance of bonds or notes may contain the provisions for the
9 protection and enforcement of the rights and remedies of the bondholders **AND THE**
10 **TRUSTEE** deemed reasonable and proper[, including covenants setting forth the duties
11 of the Service in relation to the acquisition or construction of any project, the
12 extension, enlargement, improvement, maintenance, operation, repair, and insurance
13 of any project and the custody, safeguarding, and application of money and may
14 contain provisions for the employment of consulting engineers in connection with the
15 construction or operation of any project. It is lawful for any bank or trust company
16 incorporated under the laws of the State which may act as a depository of the proceeds
17 of the bonds or notes or of revenues to furnish indemnifying bonds or to pledge
18 securities as may be required by the Board. The trust agreement may set forth the
19 rights and remedies of the bondholders and of the trustee] and may restrict the
20 individual right of action by bondholders. In addition, the trust agreement may
21 contain other provisions which the Board deems reasonable and proper for the security
22 of the bondholders, including, without limitation, covenants to abandon, restrict, or
23 prohibit the construction or operation of competing facilities and covenants pertaining
24 to the issuance of additional parity bonds or notes upon conditions stated therein
25 consistent with the requirements of this subtitle. All expenses incurred in carrying out
26 the provisions of any trust agreement may be treated as a part of the cost of the
27 operation of any project or projects in connection with which the bonds or notes have
28 been issued.

29 (b) The proceeds of the sale of bonds or notes secured by a trust agreement
30 shall be paid to the trustee under the trust agreement securing the bonds or notes and
31 shall be disbursed in the manner and under the restrictions, if any, that may be
32 provided in the trust agreement.

33 3-118.

34 (a) The Service may fix, revise, charge, and collect rentals, rates, fees or
35 other charges for the use of or for the services **OR PRODUCTS** furnished by any project
36 or projects, including projects within a service district, contract with any person or
37 municipality desiring the use of the services **OR PRODUCTS**, or any part of any project
38 or projects, and fix the terms, conditions, rentals, rates, fees, and charges therefor. The
39 rentals and other rates, fees and charges designated as security for any bonds or notes
40 issued under this subtitle shall be fixed and adjusted in respect of the aggregate
41 thereof from the projects under the control of the Service as to provide funds sufficient
42 with other revenues, if any, (1) to pay the cost of maintaining, repairing, and operating
43 any project or projects financed in whole or in part by outstanding bonds or notes, to
44 the extent the cost is not otherwise provided, (2) to pay the principal of and the

1 interest on the bonds or notes as they become due and payable, (3) to create reserves
2 for those purposes, and (4) to provide funds for paying the cost of renewals or
3 replacements, the cost of acquiring or installing equipment, and the cost of enlarging,
4 extending, reconstructing, or improving any project or projects. The rentals, rates,
5 fees, and charges are not subject to supervision or regulation by any unit of the State
6 government or any political subdivision, except as provided in § 3–128 of this subtitle.

7 (b) The rentals, rates, fees, and other charges and revenues, or any part
8 thereof, whether derived from the project or projects in connection with which the
9 bonds or notes of any issue have been issued or from other projects, designated as
10 security for the bonds or notes by the authorizing resolution or in the trust agreement
11 securing the bonds or notes, shall be set aside at the regular intervals provided in the
12 resolution or trust agreement in a sinking fund pledged to, and charged with, the
13 payment of (1) the interest on the bonds or notes as it falls due, (2) the principal of the
14 bonds or notes as it falls due, (3) the necessary charges of [paying agents for paying
15 principal and interest] **THE TRUSTEE AND OTHER AGENTS APPOINTED BY THE**
16 **TRUST AGREEMENT**, and (4) the redemption price or purchase price of bonds or notes
17 retired by call or purchase as provided in the resolution or trust agreement. Any
18 amounts set aside in the sinking fund which are not needed to provide for the payment
19 of items (1), (2), (3), and (4) may be used for any other lawful purpose to the extent
20 provided in the resolution or trust agreement. The pledge is valid and binding from
21 the time it is made. The rentals, rates, fees, and other charges, revenues or other
22 money pledged and thereafter received by the Service immediately shall be subject to
23 the lien of the pledge without any physical delivery thereof or further act, and the lien
24 of the pledge is valid and binding as against all parties having any claims of any kind
25 in tort, contract, or otherwise against the Service, irrespective of whether the parties
26 have notice thereof. Neither the resolution nor any trust agreement by which a pledge
27 is created need be filed or recorded except in the records of the Service, any public
28 general or public local law to the contrary notwithstanding. The use and disposition of
29 money to the credit of the sinking fund are subject to the provisions of the resolution
30 authorizing the issuance of the bonds or notes or of the trust agreement.

31 3–120.

32 Any holder of bonds or notes issued under this subtitle [or of any of the coupons
33 thereto appertaining,] and the trustee, except to the extent the rights herein given
34 may be restricted by the trust agreement, either at law or in equity, by suit, action,
35 mandamus or other proceedings, may protect and enforce any and all rights under the
36 laws of the State or granted hereunder, or in the resolution authorizing the issuance of
37 the bonds or notes, or under the trust agreement, and may enforce and compel the
38 performance of all duties required by this subtitle, or in the resolution authorizing the
39 issuance of the bonds or notes, or by the trust agreement, to be performed by the
40 Service, or by any officer thereof, including the fixing, charging, and collecting of
41 rentals and other rates, fees, and charges for the use of the projects.

42 3–122.

1 (a) Bonds or notes issued under the provisions of this subtitle shall not be
2 deemed to constitute or create a debt or a pledge of the faith and credit of the State or
3 of any political subdivision. Every bond or note shall contain on its face a statement to
4 the effect that neither the Service, the State, nor any political subdivision thereof is
5 obligated to pay it or the interest thereon except from revenues or other money of the
6 Service available therefor and that neither the faith and credit nor the taxing power of
7 the State or any political subdivision is pledged to the payment of the principal of or
8 the interest on the bonds or notes. However, this subsection does not limit the ability
9 of the State or a political subdivision to set, impose, or collect an assessment, rate, fee,
10 or charge to pay to the Service the cost of a project, including the principal of and
11 interest on a bond or note, under an agreement between the Service and the State or
12 political subdivision.

13 (b) (1) Notwithstanding any limitations or other provisions to the
14 contrary of Article 23A, Article 25A, or Article 25B of the Code, or of any charter or
15 local law regulating the creation of public debts, a municipality may enter into
16 contracts with the Service for the purpose of defraying the Service's costs of acquiring
17 or providing a solid waste disposal project, wastewater purification project, [or] water
18 supply project, **OR ENERGY PROJECT**, which costs may include debt service
19 requirements of the Service relating to that project. These contracts shall not be
20 deemed to constitute or create a debt of the municipality or a pledge of its faith or
21 credit within the meaning of any of these limitations or other provisions. Such a solid
22 waste disposal project, wastewater purification project, [or] water supply project, **OR**
23 **ENERGY PROJECT** may not be deemed to be a capital project of the municipality
24 within the meaning of any of these limitations or other provisions, and a resolution,
25 ordinance, or other official action authorizing such contracts is not subject to
26 referendum or other procedure not applicable to all ordinances or resolutions enacted
27 by the municipality. For the purposes of this subsection, the express powers contained
28 and enumerated in Articles 23A, 25A, and 25B of the Code and in the Charter of the
29 City of Baltimore are deemed to incorporate and include the power and authority
30 contained in this subsection.

31 (2) (i) A county or municipal corporation may limit its obligations
32 under contracts with the Service to a specific source of funds including revenues of its
33 publicly operated or publicly contracted solid waste collection or disposal system.

34 (ii) The governing body of a county or municipal corporation
35 may, by ordinance or resolution, impose reasonable rates and charges for publicly
36 operated or publicly contracted solid waste collection, treatment, or disposal sufficient
37 to defray expenses of its publicly operated or publicly contracted solid waste collection,
38 treatment, or disposal system, including amounts due under a contract with the
39 Service and the funding of reserves.

40 (iii) The ordinance or resolution may establish a reasonable
41 basis for setting the rates and charges, and a schedule of rates and charges, and may
42 designate solid waste collection, treatment, or disposal service areas within the county

1 or municipal corporation, provided the county or municipal corporation is operating its
2 own collection, treatment, or disposal service or has contracted out those services.

3 (iv) The ordinance or resolution may provide that the rates and
4 charges are chargeable against all or part of the occupied lots or parcels of land in the
5 county or municipal corporation or in service areas established by the county or
6 municipal corporation and constitute a first lien on such property and may establish
7 reasonable times and methods for collection of the rates or charges, which may be
8 levied and collected and have the same priority and rights and bear the same interest
9 and penalties and in every respect be treated the same as taxes of the county or
10 municipal corporation.

11 (v) The county or municipal corporation may modify the amount
12 of the rates and charges by a resolution of its governing body or by other action
13 authorized by the ordinance or resolution imposing the rates and charges.

14 (vi) Before setting or modifying the rates and charges, the
15 county or municipal corporation shall give notice of the proposed rates or charges in at
16 least one newspaper of general circulation in the county or municipal corporation and
17 hold a public hearing on the necessity or advisability of the proposed rates or charges.

18 (vii) The county or municipal corporation may enter into a rate
19 covenant with the Service specifying the level of these rates and charges, the
20 covenants described in § 3-104(m) of this subtitle, and other covenants of the county
21 or municipal corporation to provide solid waste collection, treatment, or disposal
22 service and assure that sufficient revenues are available to provide for the payments
23 due under the contract.

24 (viii) The powers granted by this section are in addition to other
25 powers of a county or municipal corporation granted under law and may not be
26 restricted by any debt or tax rate limitation in any general law, local law, or charter
27 provision.

28 (ix) Rates and charges imposed under this section are not
29 subject to the jurisdiction of any entity other than the Service or the contracting
30 municipality.

31 (3) Any contract between the Service and a municipality shall be valid,
32 binding, and enforceable against the municipality if it is approved by resolution of the
33 governing body of the municipality.

34 (4) A county or municipal corporation may exercise the powers
35 granted under this section notwithstanding any limitations or other provisions to the
36 contrary of Article 23A, Article 25A, or Article 25B of the Code or of any charter or
37 local law.

38 3-126.

1 (a) The Service may provide for the creation, continuation, and
2 administration of whatever funds may be required. Money in these funds and other
3 money of the Service shall be deposited, as directed by the Service, in any State or
4 national bank, or federally insured savings and loan associations having a total
5 paid-in capital of at least \$1,000,000 or in any financial institution in which the State
6 Treasurer is authorized to deposit State funds. The trust department of any State or
7 national bank or savings and loan association may be designated as a depository to
8 receive any securities acquired or owned by the Service. The restriction with respect to
9 paid-in capital may be waived for any qualifying bank or savings and loan association
10 which agrees to pledge securities of the State or of the United States to protect the
11 funds and securities of the Service in amounts and under arrangements acceptable to
12 the Service.

13 (b) Any money of the Service, in its discretion and unless otherwise provided
14 in any [agreement] **TRUST AGREEMENT, OTHER AGREEMENT**, or covenant
15 [between] **MADE BY** the Service [and] **FOR THE BENEFIT OF** the holders of any of its
16 obligations [limiting or restricting classes of investments,] **WITH RESPECT TO FUNDS**
17 **HELD UNDER THE TRUST OR OTHER AGREEMENT** may be invested in:

18 (1) Bonds or other obligations of, or guaranteed as to principal and
19 interest by, the United States or the State or its political subdivisions or units; or

20 (2) Any other obligation or security in which the State Treasurer may
21 invest under § 6-222 of the State Finance and Procurement Article.

22 (c) The Service shall make provision for a system of financial accounting,
23 controls, audits, and reports. All accounting systems and records, auditing procedures
24 and standards, and financial reporting shall conform to generally accepted principles
25 of governmental accounting. The Service shall adopt the fiscal year of July 1 to June
26 30, designate the necessary funds for complete accountability, and specify the basis of
27 accounting for each fund.

28 (d) As soon as practical after the closing of the fiscal year, an audit shall be
29 made of the financial books, records, and accounts of the Service. The audit shall be
30 made by independent certified public accountants, selected by the Service and licensed
31 to practice in the State. The accountants may not have a personal interest either
32 directly or indirectly in the fiscal affairs of the Service. They shall be experienced and
33 qualified in the accounting and auditing of public bodies. The report of audit shall be
34 prepared in accordance with generally accepted auditing principles and point out any
35 irregularities found to exist. The accountants shall report the results of their
36 examination, including their unqualified opinion on the presentation of the financial
37 position of the various funds and the results of the Service's financial operations. If
38 they are unable to express an unqualified opinion they shall state and explain in detail
39 the reasons for their qualifications, disclaimer, or opinion including recommendations
40 necessary to make possible future unqualified opinions.

1 (e) The books, records, and accounts of the Service are subject to audit by the
2 State, including the Legislative Auditor.

3 (f) Any officer or employee who refuses to give the required assistance and
4 information to the accountants selected by the Service or by the State, or who refuses
5 to submit to them for examination the books, documents, records, files, accounts,
6 papers, things, or property required for the audit, in the discretion of the Service, may
7 be required to forfeit his office or employment.

8 (g) Any moneys received by the Service from State agencies for goods or
9 services provided by the Service in accordance with agreements with those agencies
10 shall be deposited and credited to the funds created under this subtitle.

11 (h) Within the first 90 days of each fiscal year, the Service shall make a
12 report to the Governor and, subject to § 2-1246 of the State Government Article, to the
13 General Assembly of its activities for the preceding fiscal year. Each such report shall
14 set forth the complete operating and financial statement covering the Service's
15 activities during such [year and] **YEAR**, the salaries for each position of the Service,
16 **AND A SUMMARY OF ENERGY ACTIVITIES UNDERTAKEN BY THE SERVICE**
17 **DURING SUCH YEAR. EACH REPORT SHALL DESCRIBE ANY COMPLAINT THE**
18 **SERVICE RECEIVES THAT INDICATES AN ENERGY ACTIVITY UNDERTAKEN BY**
19 **THE SERVICE COMPETES WITH PRIVATE INVESTMENT IN A SIMILAR ENERGY**
20 **ACTIVITY.**

21 3-127.

22 (a) Except as otherwise provided by this subtitle, the Service may adopt,
23 formulate, revise, and enforce rules and regulations necessary for the regulation of its
24 internal affairs and for the use and operation of its projects, and of any other laws the
25 administration of which is vested in the Service. A rule or regulation concerning the
26 use or operation of a project may not conflict with any rule, regulation, permit, or
27 hauler certificate of the Department of the Environment. The Service may limit or
28 regulate water supply or liquid waste service, refuse collection, disposal service, and
29 storm and surface water drainage service, in any area or to any premises served by
30 Service projects, as the exigencies of the occasion and the protection of its systems
31 require. The Service may adopt lawful and reasonable regulations it considers
32 necessary for the public's health and safety, comfort, and convenience in the
33 construction, operation, maintenance, expansion, relocation, replacement, renovation,
34 and repair of its water supply, wastewater [purification and] **PURIFICATION**, solid
35 waste disposal, **AND ENERGY** projects.

36 (b) Rules and regulations shall be approved by the Board and adopted under
37 the provisions of the Administrative Procedure Act, except when necessary for the
38 immediate preservation of the public health and safety and except for emergency
39 provisions required to protect Service projects.

1 (c) Any regulation adopted by the Service under this section has the effect of
2 law.

3 3-128.

4 (a) If the Service and a municipality or person fail to reach agreement on
5 rates, fees, or other charges to be exacted by the Service **FOR A WATER SUPPLY OR**
6 **WASTEWATER PURIFICATION PROJECT**, the Public Service Commission, on the
7 petition of either party to the disagreement, shall assume jurisdiction for the purpose
8 of arbitrating the disagreement. Its determination shall be final and binding on all
9 parties concerned, subject to the right of any party to appeal the determination to the
10 circuit court of any county within which the municipality or person is located, resides,
11 or carries on business. In any appeal the decision of the Commission is prima facie
12 correct and shall be affirmed unless clearly shown to be (1) in violation of
13 constitutional provisions, or (2) made on unlawful procedure, or (3) arbitrary or
14 capricious, or (4) affected by other error of law. It is the intention of this subtitle that
15 judicial review in all instances includes the right to appeal to the Court of Special
16 Appeals from the decision of the lower court. The provisions of this section and the
17 jurisdiction of the Public Service Commission shall not apply to any rates, fees, or
18 charges agreed to by contract between the Service and a municipality or person **FOR A**
19 **WATER SUPPLY OR WASTEWATER PURIFICATION PROJECT**.

20 (b) The Service may not be deemed to be a public service company within the
21 meaning of the Public Utility Companies Article, and, except as provided in this
22 section **AND IN § 3-102(B) OF THIS SUBTITLE**, the jurisdiction and powers of the
23 Public Service Commission do not extend to the Service.

24 3-129.

25 Any person who violates any provision of this subtitle or of any rule or
26 regulation adopted by the Service is guilty of a misdemeanor and on conviction is
27 subject to a fine not exceeding \$1,000 for each violation. A separate offense exists for
28 each day a violation occurs.

29 3-130.

30 This subtitle shall be known as the "Maryland Environmental Service Act".

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2009.