

# HOUSE BILL 741

P1, M3

EMERGENCY BILL

11r0126  
CF SB 575

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By: **The Speaker (By Request – Administration)**

Introduced and read first time: January 26, 2021

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Environmental Service – Officers, Board of Directors, and**  
3 **Responsibilities – Alterations**

4 FOR the purpose of removing the Deputy Director of the Maryland Environmental Service  
5 as a designated officer of the Service and instead authorizing the Board of Directors  
6 of the Service to appoint a Deputy Director to assist the Director in a certain manner;  
7 providing that the Deputy Director serves at the pleasure of the Board; providing for  
8 the compensation of the Deputy Director; providing that the Secretary and the  
9 Treasurer of the Service be appointed by the Governor, with the advice and consent  
10 of the Senate of Maryland; providing that the Treasurer and the Secretary serve at  
11 the pleasure of the Board; altering the size and membership of the Board; providing  
12 that the Director serves as a nonvoting member of the Board; prohibiting an  
13 employee of the Service, except for the Director, from serving as a member of the  
14 Board; altering the number of members that constitutes a quorum for the transaction  
15 of business of the Board; altering the number of votes necessary for certain actions  
16 of the Board; providing for the terms of certain members of the Board; requiring  
17 Board membership to reflect certain diversity of the State in a certain manner;  
18 requiring members of the Board to file a certain financial statement with the State  
19 Ethics Commission in a certain manner; requiring the Governor to appoint the chair  
20 of the Board from among the Board's members; prohibiting the Director from serving  
21 as chair of the Board; requiring the Board to establish certain criteria and procedures  
22 for evaluating the Director in a certain manner and to publish the criteria and  
23 procedures on the Service's website; altering certain requirements for submitting a  
24 certain budget of the Service to the Department of Budget and Management;  
25 requiring the Board to adopt, on or before a certain date, a certain conflict of interest  
26 policy for members of the Board and to send the conflict of interest policy to the  
27 President of the Senate and the Speaker of the House under certain circumstances;  
28 requiring members of the Board to observe a certain standard of care; requiring the  
29 Board to obtain a certain assessment of the Board's operations on or before certain  
30 dates; authorizing a certain member of the Board to apply for reappointment under  
31 certain circumstances and subject to certain conditions; altering the contents of a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain report; requiring the Service to obtain a certain audit to be reviewed by the  
2 Board in a certain manner; requiring the Service to provide a copy of a certain audit  
3 and certain information to the Department of Budget and Management; requiring  
4 the Board to post a certain audit on the Service's website in a certain manner;  
5 requiring, on or before a certain date, that the Board review certain matters, make  
6 certain changes under certain circumstances, and submit a certain report to the  
7 Governor and the General Assembly; making this Act an emergency measure;  
8 making technical and conforming changes; and generally relating to the Maryland  
9 Environmental Service.

10 BY repealing and reenacting, without amendments,

11 Article – General Provisions  
12 Section 5–601(a)  
13 Annotated Code of Maryland  
14 (2019 Replacement Volume and 2020 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – General Provisions  
17 Section 5–601(d)  
18 Annotated Code of Maryland  
19 (2019 Replacement Volume and 2020 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Natural Resources  
22 Section 3–101(a), (b), (f), and (n)  
23 Annotated Code of Maryland  
24 (2018 Replacement Volume and 2020 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Natural Resources  
27 Section 3–103 and 3–126(d) and (h)  
28 Annotated Code of Maryland  
29 (2018 Replacement Volume and 2020 Supplement)

30 BY adding to

31 Article – Natural Resources  
32 Section 3–103.3 and 3–103.4  
33 Annotated Code of Maryland  
34 (2018 Replacement Volume and 2020 Supplement)

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

37 **Article – General Provisions**

38 5–601.

1 (a) Except as provided in subsections (b) and (c) of this section, and subject to  
2 subsections (d) and (e) of this section, each official and candidate for office as a State official  
3 shall file a statement as specified in §§ 5–602 through 5–608 of this subtitle.

4 (d) (1) Except as provided in paragraph (2) of this subsection, an individual  
5 who is a public official only as a member of a board and who receives annual compensation  
6 that is less than 25% of the lowest annual compensation at State grade level 16 shall file  
7 the statement required by subsection (a) of this section in accordance with § 5–609 of this  
8 subtitle.

9 (2) (I) A member of a board of license commissioners or of a liquor  
10 control board shall file a statement in accordance with § 5–607 of this subtitle.

11 (II) **A MEMBER OF THE BOARD OF DIRECTORS OF THE**  
12 **MARYLAND ENVIRONMENTAL SERVICE SHALL FILE A STATEMENT IN ACCORDANCE**  
13 **WITH § 5–607 OF THIS SUBTITLE.**

#### 14 Article – Natural Resources

15 3–101.

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

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

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

19 (n) “Service” means the Maryland Environmental Service.

20 3–103.

21 (a) (1) There is a body politic and corporate known as the “Maryland  
22 Environmental Service”.

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

26 (b) (1) There are [four] **THREE** officers of the Service: [a Director, a Deputy  
27 Director, a]

28 (I) **A DIRECTOR;**

29 (II) **A Secretary[.]; and [a]**

30 (III) **A Treasurer.**

1           **(2) (I)** The [four] **THREE** officers of the Service shall be appointed [as  
2 follows:] **IN ACCORDANCE WITH THIS PARAGRAPH.**

3           **[(i)] (II)** 1. The Director shall be appointed by the Governor,  
4 with the advice and consent of the Senate solely with regard to the qualifications for the  
5 duties of the office.

6           **2.** The Director serves at the pleasure of the Board with the  
7 concurrence of the Governor and shall receive such compensation as may be determined by  
8 the Board[; and].

9           **[(ii)] (III)** 1. The [Deputy Director, the] Secretary and the  
10 Treasurer shall be appointed by the [Director with the approval of the] Governor **WITH**  
11 **THE ADVICE AND CONSENT OF THE SENATE** solely with regard to the qualifications for  
12 the duties of the office.

13           **2.** The [Deputy Director, the] Secretary and the Treasurer  
14 serve at the pleasure of the [Director] **BOARD** and shall receive such compensation as may  
15 be determined by the Board.

16           **[(2)] (3)** The Board of Directors of the Service shall consist of [nine] **12**  
17 members as follows:

18           (i) The Director, [Deputy Director,] **WHO SHALL SERVE AS A**  
19 **NONVOTING MEMBER;**

20           **(II) THE** Secretary[, and] **OF THE SERVICE;**

21           **(III) THE** Treasurer of the Service;

22           **(IV) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE**  
23 **SECRETARY'S DESIGNEE;**

24           **(V) THE STATE TREASURER, OR THE STATE TREASURER'S**  
25 **DESIGNEE;**

26           **[(ii)] (VI)** Three members from the public sector in the State in  
27 positions responsible for water, wastewater, or solid waste management; [and]

28           **[(iii)] (VII)** Two members from the private sector in the State with  
29 technical, [financial,] development, or legal experience related to water, wastewater, or  
30 solid waste management;

1           **(VIII) ONE MEMBER FROM THE PRIVATE SECTOR IN THE STATE**  
2 **WITH FINANCIAL EXPERIENCE RELATED TO WATER, WASTEWATER, OR SOLID WASTE**  
3 **MANAGEMENT; AND**

4           **(IX) ONE MEMBER WITH EXPERIENCE OR EXPERTISE IN**  
5 **MATTERS RELATED TO BUSINESS ETHICS, PREFERABLY INVOLVING BOARD OF**  
6 **DIRECTOR ETHICS AND CONFLICTS OF INTEREST.**

7           **[(3)] (4)** The public sector and private sector members of the Board, as set  
8 forth in paragraph **[(2)(ii) and (iii)] (3)(VI) THROUGH (IX)** of this subsection shall be  
9 appointed by the Governor with the advice and consent of the Senate.

10           **(5) EXCEPT FOR THE DIRECTOR, AN EMPLOYEE OF THE SERVICE MAY**  
11 **NOT SERVE AS A MEMBER OF THE BOARD.**

12           **[(4)] (6) (I) [Six] SEVEN** members constitute a quorum for the  
13 transaction of business of the Board.

14           **(II)** The affirmative vote of at least **[five] SIX** members is necessary  
15 for any action taken by the Board.

16           **[(5)] (7)** Those members of the Board not already holding a public office  
17 shall receive from the Service:

18           (i) Per diem compensation as established by the Board; and

19           (ii) Reimbursement for expenses under Standard State Travel  
20 Regulations.

21           **[(6)] (8)** The term of a member who is **[not an officer of the Service]**  
22 **APPOINTED UNDER PARAGRAPHS (3)(VI) THROUGH (IX) OF THIS SUBSECTION** is 4  
23 years.

24           **[(7)] (9)** The terms of members who are **[not officers of the Service]**  
25 **APPOINTED UNDER PARAGRAPH (3)(VI) THROUGH (IX) OF THIS SUBSECTION** are  
26 staggered as required by the terms provided for those members of the Board on July 1,  
27 **[1993] 2021.**

28           **[(8)] (10)** At the end of a term, a member continues to serve until a  
29 successor is appointed and qualifies.

30           **[(9)] (11)** A member who is appointed after a term has begun serves only  
31 the remainder of that term and until a successor is appointed and qualifies.

1           **(12) A MEMBER OF THE BOARD WHO IS APPOINTED UNDER**  
2 **PARAGRAPH (3)(VI) THROUGH (IX) OF THIS SUBSECTION MAY SERVE ONLY TWO**  
3 **CONSECUTIVE FULL 4-YEAR TERMS, PLUS ANY PARTIAL TERM SERVED BEFORE THE**  
4 **INITIAL 4-YEAR TERM.**

5           **(13) TO THE EXTENT PRACTICABLE, THE MEMBERSHIP OF THE BOARD**  
6 **SHALL REFLECT THE GENDER, RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY OF**  
7 **THE STATE.**

8           **(14) A MEMBER OF THE BOARD SHALL FILE AN ANNUAL FINANCIAL**  
9 **STATEMENT WITH THE STATE ETHICS COMMISSION UNDER TITLE 5, SUBTITLE 6 OF**  
10 **THE GENERAL PROVISIONS ARTICLE.**

11           **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
12 **GOVERNOR SHALL APPOINT THE CHAIR OF THE BOARD FROM AMONG THE BOARD'S**  
13 **MEMBERS.**

14           **(2) THE DIRECTOR MAY NOT SERVE AS CHAIR OF THE BOARD.**

15           **[(c)] (D) (1) The Director [is both]:**

16                   **(I) IS the administrative head of the Service [and the presiding**  
17 **officer of the Board. The Director is];**

18                   **(II) IS directly responsible to the Board and shall advise the Board**  
19 **on all matters assigned to the Service[. The Director shall];**

20                   **(III) SHALL carry out the Board's policies related to the Service[. He**  
21 **is]; AND**

22                   **(IV) IS responsible for the exercise of all powers and duties conferred**  
23 **upon the Service by the provisions of this subtitle except for those powers and duties**  
24 **specifically conferred by this subtitle on the Secretary, Treasurer, or Board.**

25           **(2) THE BOARD SHALL:**

26                   **(I) ESTABLISH THE CRITERIA AND PROCEDURES FOR**  
27 **EVALUATING THE DIRECTOR;**

28                   **(II) PUBLISH THE CRITERIA AND PROCEDURES ESTABLISHED**  
29 **UNDER ITEM (I) OF THIS PARAGRAPH ON THE SERVICE'S WEBSITE; AND**

1                   **(III) ANNUALLY EVALUATE THE DIRECTOR IN ACCORDANCE**  
2 **WITH THE CRITERIA AND PROCEDURES ESTABLISHED UNDER ITEM (I) OF THIS**  
3 **PARAGRAPH.**

4                   **[(2)] (3) (I) THE BOARD MAY APPOINT A DEPUTY DIRECTOR TO**  
5 **ASSIST THE DIRECTOR.**

6                   **(II) The Deputy Director shall [have]:**

7                   **1. SERVE AT THE PLEASURE OF THE BOARD;**

8                   **2. RECEIVE THE COMPENSATION DETERMINED BY THE**  
9 **BOARD; AND**

10                   **3. HAVE the duties provided by law or delegated by the**  
11 **Director.**

12                   **(III) IF THE DIRECTOR IS UNABLE TO ATTEND A MEETING OF**  
13 **THE BOARD, THE DEPUTY DIRECTOR SHALL ATTEND THE MEETING AND ACT IN**  
14 **PLACE OF THE DIRECTOR.**

15                   **[(d)] (E) (1) The Secretary [shall]:**

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[. He may];

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[. Any  
21 person dealing with the Service may rely upon these certificates, and certified copies shall  
22 be received as evidence in any court or other tribunal in the State, in the same manner and  
23 with the same effect as if the original books, papers, entries, records, or proceedings could  
24 be produced.]; **AND**

25                   **[(2)] (III) [The Secretary] MAY, with the approval of the Board, [may]**  
26 **delegate to the Deputy Director, during an absence of the Secretary, any duty enumerated**  
27 **in [paragraph (1) of this subsection] ITEMS (I) AND (II) OF THIS PARAGRAPH.**

28                   **(2) ANY PERSON DEALING WITH THE SERVICE MAY RELY ON THE**  
29 **CERTIFICATES DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION, AND**  
30 **CERTIFIED COPIES SHALL BE RECEIVED AS EVIDENCE IN ANY COURT OR OTHER**  
31 **TRIBUNAL IN THE STATE, IN THE SAME MANNER AND WITH THE SAME EFFECT AS IF**  
32 **THE ORIGINAL BOOKS, PAPERS, ENTRIES, RECORDS, OR PROCEEDINGS COULD BE**  
33 **PRODUCED.**

1            [(e)] (F)        (1)    (I)    The Treasurer shall [develop]:

2                            1.    **DEVELOP** and maintain a detailed and accurate  
3 accounting system for all financial transactions of the Service[.]; and [he shall perform]

4                            2.    **PERFORM** other duties relating to the financial affairs of  
5 the Service as required by law or by a directive of the Board.

6                            (II)   Unless any money of the Service is otherwise held by or payable  
7 to a trustee appointed pursuant to a resolution authorizing the issuance of bonds or notes  
8 or under a trust agreement securing the bonds or notes, the Treasurer shall [receive]:

9                            1.    **RECEIVE** money of the Service until otherwise prescribed  
10 by law; and [he shall deposit]

11                            2.    **DEPOSIT** the money as soon as it is received to the credit  
12 of the Service in any financial institution in which the State Treasurer is authorized to  
13 deposit State funds. [He]

14                            (III) **THE TREASURER** shall disburse money for the purposes of the  
15 Service according to law, only upon [his] **THE TREASURER'S** warrant. [He]

16                            (IV) **THE TREASURER** shall make arrangements for the payment of  
17 the interest on and principal of the Service debt.

18                            (V)   Upon entering the performance of [his] **OFFICIAL** duties, the  
19 Treasurer shall be covered by a surety bond in accordance with the provisions of law  
20 concerning the State Employees Surety Bond Committee.

21                            (2)   (I)    With the approval of the Board, the Treasurer may authorize an  
22 employee of the Service to serve as [his deputy] **DEPUTY TREASURER** and to disburse  
23 money for the purposes of the Service as provided by law, and subject to restrictions and  
24 other conditions that the Treasurer establishes.

25                            (II)   The Deputy Treasurer shall be covered by a surety bond in  
26 accordance with the provisions of law concerning the State Employees Surety Bond  
27 Committee.

28            [(f)] (G)        (1)    The Attorney General of Maryland shall [be]:

29                            (I)    **BE** the legal advisor for the Service and the Board[. He shall  
30 enforce]; **AND**



1                   **(II) ENFORCE** compliance with the requirements of this subtitle  
2 through any appropriate legal remedy and prosecute violations in accordance with the  
3 provisions of this subtitle.

4                   **(2) (I)** The Attorney General shall assign to the Service the number of  
5 assistant Attorneys General and other staff requested by the Service.

6                   **(II)** One of the assistant Attorneys General shall be designated by  
7 the Attorney General as counsel to the Service.

8                   **(III)** The counsel to the Service shall have no other duty than to  
9 render, subject to the discretion and control of the Attorney General, the legal aid, advice,  
10 and counsel required by the Director, the Board, and the other officials of the Service and,  
11 also subject to the discretion and control of the Attorney General, to supervise the other  
12 assistant Attorneys General assigned to the Service.

13                   **(IV)** The counsel and every other assistant Attorney General assigned  
14 to the Service shall be practicing lawyers of this State in good standing and shall be entitled  
15 to a salary from the funds of the Service.

16                   **(V)** After the Attorney General has designated an assistant Attorney  
17 General to serve as counsel to the Service, the Attorney General may not reassign the  
18 counsel without consulting with the Director and the Board.

19                   **(VI)** With the approval of the Attorney General, the Service may  
20 employ additional counsel that it considers necessary to carry out the provisions of this  
21 subtitle.

22                   **[(g)] (H) (1)** The Service is exempt from the provisions of Subtitles 3, 4, 5, and  
23 7 of Title 4 of the State Finance and Procurement Article.

24                   **(2)** The Service is exempt from the provisions of Division II of the State  
25 Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14, Subtitle 4  
26 of Title 12, Title 16, and Title 17 of the State Finance and Procurement Article.

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

33                   **(ii)** The Service may procure materials, equipment, services, or  
34 supplies by utilizing:

- 35                   1. Competitive sealed bids;

- 1                                   2.     Competitive sealed proposals;
- 2                                   3.     Sole source procurement;
- 3                                   4.     Intergovernmental cooperative purchasing agreements;
- 4                                   5.     A small procurement process, if the procurement is  
5 estimated by the Service to result in an expenditure of \$25,000 or less; or
- 6                                   6.     An emergency procurement process, if the procurement is  
7 necessary to avoid or to mitigate serious damage to public health, safety, or welfare.

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

11                   **[(h)] (I)**     (1)     The Service:

12                                   (i)     May create and establish 1 or more project reserve funds in such  
13 amounts as the Board considers appropriate, including the following project reserve funds:

- 14                                   1.     An Eastern Correctional Institution Steam Turbine  
15 Contingency Fund;
- 16                                   2.     A Department of Natural Resources Project Contingency  
17 Fund; and
- 18                                   3.     A Reimbursable Project Contingency Fund; and

19                                   (ii)    Subject to paragraph (2) of this subsection, may pay into such  
20 funds:

- 21                                   1.     Any money appropriated and made available by the State  
22 for the purposes of such funds;
- 23                                   2.     Any proceeds from the sale of bonds or notes, to the extent  
24 provided in the resolution authorizing the issuance of the bonds or notes;
- 25                                   3.     Revenues derived from a project of the Service; and
- 26                                   4.     Any other money that may be received by or otherwise  
27 made available to the Service from any other source or sources which the Service has  
28 designated for deposit into such funds.

29                   (2)     Money held in or credited to a project reserve fund established under  
30 this subsection shall be used solely to accomplish the purposes of this subtitle, as

1 determined by the Board and, subject to paragraph (3) of this subsection, may be retained  
2 by the Service in the appropriate project reserve fund based on the project for which the  
3 money was received by the Service.

4 (3) (i) The Service may credit to a project reserve fund established  
5 under paragraph (1)(i)1 through 3 of this subsection only money that is reimbursable to the  
6 State.

7 (ii) The Service may not retain more than:

8 1. \$1,500,000 in the Eastern Correctional Institution  
9 Turbine Project Contingency Fund;

10 2. \$500,000 in the Department of Natural Resources Project  
11 Contingency Fund; or

12 3. \$1,000,000 in the Reimbursable Project Contingency  
13 Fund.

14 (iii) If at the end of a fiscal year the balance in a project reserve fund  
15 exceeds the limits stated in subparagraph (ii) of this paragraph, the Service shall revert  
16 the excess to the State fund from which the money in the project reserve fund was originally  
17 appropriated.

18 (4) Money appropriated or made available to the Service by the State shall  
19 be expended in accordance with the provisions of this subtitle.

20 **[(i)] (J) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**  
21 **THE Service shall submit annually a FULL AND DETAILED budget reflecting the operating**  
22 **and capital program of the Service to the Department of Budget and Management for**  
23 **inclusion for informational purposes in the State budget book.**

24 **(2) THE BUDGET SUBMITTED UNDER PARAGRAPH (1) OF THIS**  
25 **SUBSECTION SHALL:**

26 **(I) BE SUBMITTED IN A MANNER REQUIRED BY THE**  
27 **DEPARTMENT OF BUDGET AND MANAGEMENT; AND**

28 **(II) SPECIFY THE SOURCE OF THE SERVICE'S REVENUES IN A**  
29 **MANNER REQUIRED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT.**

30 **3-103.3.**

31 **(A) (1) ON OR BEFORE OCTOBER 31, 2021, THE BOARD SHALL ADOPT A**  
32 **CONFLICT OF INTEREST POLICY FOR MEMBERS OF THE BOARD THAT INCLUDES:**

1                   **(I) STANDARDS FOR THE DISCLOSURE OF FINANCIAL**  
2 **INTERESTS;**

3                   **(II) STANDARDS FOR BOARD MEMBER PARTICIPATION IN**  
4 **CONTRACTS WITH THE SERVICE IN ACCORDANCE WITH THIS SUBTITLE, INCLUDING**  
5 **AN ATTESTATION THAT THE BOARD MEMBER HAS COMPLIED WITH THE CONFLICT**  
6 **OF INTEREST STANDARDS ADOPTED BY THE BOARD;**

7                   **(III) STANDARDS FOR RECUSAL FROM VOTING;**

8                   **(IV) A REQUIREMENT THAT A BOARD MEMBER MAY NOT USE**  
9 **THE BOARD MEMBER'S POSITION ON THE BOARD FOR PERSONAL GAIN WHEN**  
10 **CONTRACTING WITH THE SERVICE; AND**

11                   **(V) A REQUIREMENT THAT A BOARD MEMBER PROVIDE AN**  
12 **ATTESTATION OF ANY BUSINESS RELATIONSHIP WITH THE SERVICE.**

13                   **(2) THE BOARD SHALL SEND A COPY OF THE CONFLICT OF INTEREST**  
14 **POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR,**  
15 **THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE:**

16                   **(I) AFTER THE POLICY IS INITIALLY ADOPTED; AND**

17                   **(II) EACH TIME A CHANGE IS MADE TO THE POLICY.**

18                   **(B) BOARD MEMBERS SHALL OBSERVE THE SAME STANDARD OF CARE**  
19 **REQUIRED OF CORPORATE DIRECTORS UNDER § 2-405.1 OF THE CORPORATIONS**  
20 **AND ASSOCIATIONS ARTICLE.**

21 **3-103.4.**

22                   **(A) ON OR BEFORE DECEMBER 31, 2021, AND EACH DECEMBER 31 EVERY**  
23 **3 YEARS THEREAFTER, THE BOARD SHALL OBTAIN AN ASSESSMENT OF THE**  
24 **BOARD'S OPERATIONS BY AN INDEPENDENT CONSULTANT OR ACCOUNTANT.**

25                   **(B) THE ASSESSMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**  
26 **SHALL INCLUDE AN EVALUATION OF:**

27                   **(1) THE STRUCTURE OF THE BOARD, INCLUDING THE BOARD'S:**

28                   **(I) COMPOSITION;**

1 (II) CHARTER, BYLAWS, AND OTHER GOVERNING DOCUMENTS  
2 AND PROCEDURES;

3 (III) DIVERSITY;

4 (IV) SUBCOMMITTEES OR WORKGROUPS; AND

5 (V) FREQUENCY OF MEETINGS;

6 (2) THE DYNAMICS AND FUNCTIONING OF THE BOARD, INCLUDING:

7 (I) THE BOARD'S ANNUAL CALENDAR;

8 (II) ACCESS TO INFORMATION;

9 (III) COMMUNICATION WITH SERVICE PERSONNEL;

10 (IV) PLANNING; AND

11 (V) COHESIVENESS AND CONDUCT OF BOARD MEETINGS;

12 (3) THE BOARD'S ROLE IN THE SERVICE'S SHORT-TERM AND  
13 LONG-TERM STRATEGY;

14 (4) THE FINANCIAL REPORTING PROCESS, INTERNAL AUDIT, AND  
15 INTERNAL CONTROLS;

16 (5) THE BOARD'S ROLE IN MONITORING THE SERVICE'S POLICIES,  
17 STRATEGIES, AND SYSTEMS;

18 (6) THE BOARD'S ROLE IN SUPPORTING AND ADVISING THE SERVICE;

19 (7) THE ROLE OF THE CHAIR OF THE BOARD; AND

20 (8) ANY OTHER ISSUE RELEVANT TO THE BOARD'S OPERATIONS.

21 (C) THE BOARD SHALL:

22 (1) REVIEW EACH ASSESSMENT REQUIRED UNDER THIS SECTION AT  
23 A MEETING OF THE BOARD; AND

24 (2) MAKE ANY CHANGES OR RECOMMENDATIONS THAT THE BOARD  
25 CONSIDERS APPROPRIATE BASED ON THE ASSESSMENT.

1           **(D) (1) THE BOARD SHALL SUBMIT EACH ASSESSMENT REQUIRED UNDER**  
2 **THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE**  
3 **STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

4           **(2) THE SERVICE SHALL POST A COPY OF EACH ASSESSMENT ON THE**  
5 **SERVICE'S WEBSITE, INCLUDING A LINK TO A COPY OF THE MOST RECENT**  
6 **ASSESSMENT ON THE HOMEPAGE OF THE WEBSITE.**

7 3-126.

8           **(d) (1) (I) 1.** As soon as practical after the closing of the fiscal year, an  
9 audit shall be made of the financial books, records, and accounts of the Service.

10                               **2.** The audit shall be made by independent certified public  
11 accountants, selected by the Service and licensed to practice in the State.

12                               **3.** The accountants [may]:

13                               **A. MAY** not have a personal interest either directly or  
14 indirectly in the fiscal affairs of the Service[. They shall]; **AND**

15                               **B. SHALL** be experienced and qualified in the accounting and  
16 auditing of public bodies.

17                               **4.** The report of audit shall be prepared in accordance with  
18 generally accepted auditing principles and point out any irregularities found to exist.

19                               **5. A.** The accountants shall report the results of their  
20 examination, including their unqualified opinion on the presentation of the financial  
21 position of the various funds and the results of the Service's financial operations.

22                               **B.** If [they] **THE ACCOUNTANTS** are unable to express an  
23 unqualified opinion they shall state and explain in detail the reasons for their  
24 qualifications, disclaimer, or opinion including recommendations necessary to make  
25 possible future unqualified opinions.

26                               **(II) SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH AND**  
27 **EITHER AS A SEPARATE PART OF THE AUDIT REQUIRED UNDER SUBPARAGRAPH (I)**  
28 **OF THIS PARAGRAPH OR AS AN INDIVIDUAL AUDIT, THE SERVICE SHALL OBTAIN AN**  
29 **AUDIT THAT FOCUSES ON UNAUTHORIZED SPENDING, MISALLOCATED EXPENSES,**  
30 **LACK OF CONFORMITY WITH STATE LAW OR BOARD POLICIES, AND OTHER**  
31 **ACCOUNTING ERRORS.**

1           **(2) THE BOARD SHALL REVIEW AN AUDIT PREPARED UNDER**  
2 **PARAGRAPH (1) OF THIS SUBSECTION AT A MEETING OF THE BOARD AND MAKE ANY**  
3 **CHANGES OR RECOMMENDATIONS THAT THE BOARD CONSIDERS APPROPRIATE**  
4 **BASED ON THE AUDIT.**

5           **(3) THE SERVICE SHALL:**

6           **(I) PROVIDE TO THE DEPARTMENT OF BUDGET AND**  
7 **MANAGEMENT:**

8                   **1. A COPY OF AN AUDIT PREPARED UNDER PARAGRAPH**  
9 **(1) OF THIS SUBSECTION; AND**

10                   **2. ANY CHANGES OR RECOMMENDATIONS OF THE**  
11 **BOARD BASED ON THE AUDIT; AND**

12           **(II) POST A COPY OF AN AUDIT PREPARED UNDER PARAGRAPH**  
13 **(1) OF THIS SUBSECTION ON THE SERVICE'S WEBSITE, INCLUDING A LINK ON THE**  
14 **HOMEPAGE OF THE WEBSITE TO A COPY OF THE MOST RECENT AUDIT.**

15           **(h) (1) Within the first 90 days of each fiscal year, the Service shall make a**  
16 **report to the Governor and, subject to § 2-1257 of the State Government Article, to the**  
17 **General Assembly of its activities for the preceding fiscal year. [Each such]**

18           **(2) THE report REQUIRED UNDER PARAGRAPH (1) OF THIS**  
19 **SUBSECTION shall set forth [the]:**

20                   **(I) THE complete operating and financial statement covering the**  
21 **Service's activities during [such] THE PRECEDING FISCAL year[, the];**

22                   **(II) 1. ANY AUDITS PREPARED UNDER SUBSECTION (D)(1)**  
23 **OF THIS SECTION; AND**

24                   **2. ANY BOARD CHANGES OR RECOMMENDATIONS**  
25 **BASED ON AN AUDIT;**

26                   **(III) THE salaries for each position of the Service[.]; and [a]**

27                   **(IV) A summary of energy activities undertaken by the Service**  
28 **during [such] THE PRECEDING FISCAL year.**

29           SECTION 2. AND BE IT FURTHER ENACTED, That:

1 (a) The term of office of the public sector and private sector members of the Board  
2 of Directors of the Maryland Environmental Service who are serving on the Board on or  
3 before June 30, 2021, shall terminate at the later of:

4 (1) the end of June 30, 2021; or

5 (2) the date on which the Governor appoints a successor.

6 (b) (1) Subject to § 3–103 of the Natural Resources Article, as enacted by  
7 Section 1 of this Act, and paragraph (2) of this subsection, a member of the Board whose  
8 appointment ends under subsection (a) of this section may apply for reappointment.

9 (2) If the Governor reappoints a member in accordance with this  
10 subsection, the reappointment of the member is subject to the advice and consent of the  
11 Senate during the legislative session immediately following the date of appointment.

12 (3) A member who is reappointed under this subsection shall be considered  
13 appointed on the date of the member's initial appointment and is subject to the  
14 requirements of § 3–103 of the Natural Resources Article, as enacted by Section 1 of this  
15 Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this  
17 Act, the terms of the initial members of the Board of Directors of the Maryland  
18 Environmental Service appointed under § 3–103(b)(3)(vi) through (ix) of the Natural  
19 Resources Article, as enacted by Section 1 of this Act, shall expire as follows:

20 (1) two members in 2023;

21 (2) two members in 2024; and

22 (3) three members in 2025.

23 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 31,  
24 2021, the Board of Directors of the Maryland Environmental Service shall:

25 (1) review the following matters relating to the Board:

26 (i) out-of-state travel;

27 (ii) compensation, including bonuses and severance packages;

28 (iii) conflict of interest and ethics requirements and training for  
29 employees and Board members; and

30 (iv) reimbursement of expenses;



1                   (2)     make any changes to policies and procedures that the Board considers  
2 necessary and appropriate based on the review; and

3                   (3)     report to the Governor and, in accordance with § 2–1257 of the State  
4 Government Article, the General Assembly on the Board’s review, including any  
5 recommendations of the Board.

6           SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency  
7 measure, is necessary for the immediate preservation of the public health or safety, has  
8 been passed by a yea and nay vote supported by three–fifths of all the members elected to  
9 each of the two Houses of the General Assembly, and shall take effect from the date it is  
10 enacted.