



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Maryland Environmental Service Reform Act Fact Sheet

Overview

The Maryland Environmental Service (MES) is an independent agency of the state of Maryland spun off from the Department of Natural Resources in 1993 tasked with undertaking projects to preserve and improve Maryland's environment (*e.g.*, dredging; landfill operations; recycling; composting; and more). While MES does not receive direct state funding, 95% of their revenue comes from state and local governments who hire MES for projects.¹

The purpose of the Maryland Environmental Service Reform Act is to reform a systemic culture of waste, fraud and abuse which was brought to light in the summer of 2020 following the departure of former MES Director Roy McGrath.

On May 31, 2020, Mr. McGrath resigned as Director of MES to become Governor Hogan's Chief of Staff. Shortly thereafter, MES approved a massive severance package to Mr. McGrath which included one year's salary (\$233,647.23); reimbursements for conferences (\$5,250); and unclaimed expenses dating back several years related to lavish and excessive travel and meals (\$55,888.32). Previous MES Directors had received a severance payment for salary as they were leaving state government service entirely. Mr. McGrath, however, remained a state employee by moving to Governor Hogan's office and there was no precedent for him to receive this level of compensation.

A subsequent investigation by the Maryland General Assembly suggests that Mr. McGrath misled the MES Board of Directors regarding the nature and size of the payout. The investigation also found that Mr. McGrath regularly approved his own expenses for expensive travel to conferences around the world in locations such as Israel, Naples and Brussels. The investigation found that Mr. McGrath's lavish spending was part of an effort to style himself as the CEO of a private business rather than a director of an instrument of state government. McGrath resigned as Governor Hogan's Chief of Staff on August 17, 2020.

Reforms

¹ "Maryland Environmental Service: Operational Budget Summary" (Maryland Environmental Service, n.d.), <http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2021fy-budget-docs-operating-U10B00-Maryland-Environmental-Service.pdf>.

In light of the serious issues raised by the McGrath severance and subsequent investigation, reforms are needed to ensure that MES operates as an accountable and financially responsible state entity. The legislation institutes the following reforms:

- Removes the Director from the MES Board of Directors, along with any appointees of the Director (under current law, the Director appoints three members of the Board: the Deputy Director, Secretary and Treasurer). This change ensures that no future Director will be able to exert undue influence over the Board regarding payouts or other expenses in the way Mr. McGrath did. The legislation also adds another private appointee to the Board chosen by the Governor. This would create a seven person Board consisting of the Treasurer and the Governor's three public and three private appointees, who are subject to Senate confirmation.
- Adds the State Treasurer to the MES Board to provide additional oversight.
- Requires one of the public sector appointees come from a list recommended by Maryland Association of Counties and the Maryland Municipal League.
- Requires that the MES Board officers are selected from among their members (Chair, Treasurer, Secretary).
- Keeps Board terms staggered.
- Clarifies that no MES employees shall serve on the Board. This change will prevent the Director from placing undue influence on employees. The investigation revealed that Mr. McGrath exerted his authority over MES employees to approve his questionable expenses. In order for the MES Board to be able to hold the Director accountable, none of its members should be direct subordinates of the Director.
- Requires MES Board members to partake in an annual training regarding ethics, duty of care, harassment, diversity, and MES policies in order to help reform the many problems with MES's culture that the investigation found. These include an overall level of secrecy, and misuse of funds.
- Specifies that MES Board meetings should follow the transparency provisions for the posting of agendas and web streaming meetings consistent with the requirements for several other quasi-independent agencies in Chapter 202 of 2020 to promote transparency and restore public trust in MES's operations.
- Requires the Board to promulgate or re-promulgate policies on severance; bonuses (including a cap on bonuses for executives as a percentage of salary); tuition; expense reimbursement (including how long after being incurred expenses can be reimbursed; caps on reimbursement; and nexus to MES functions); diversity; whistleblower complaints; travel; use of cars; use of laptops; use of cell phones (including, for all three, whether and how such property can be transferred to an employee or another agency) and submit such policies to the Legislative Policy Committee and budget committees by December 31, 2021 and every time they are changed. Such policies must apply to all employees and board members including the Director. The investigation uncovered that Mr. McGrath violated MES policies by claiming reimbursement for some of his lavish expenses. The legislation will strengthen these existing policies and clarify that they apply to the Director.

- Clarifies that MES Board members have to meet the standard of care requirements in Section 2-405.1 of the Corporations and Associations Article to ensure they are conducting their duties in good faith.
- Bans severance for executives moving to other positions in state service with a one year clawback. If an employee initially retires from MES, but then takes a job with another state entity several months later, they will be required to return the severance.
- Requires an annual report on how MES is helping the state achieve its Greenhouse Gas Reduction Act goals. As its name suggests, the Maryland Environmental Service's purpose is to undertake projects that protect the state's environment. At a time when Maryland faces tremendous existential risks due to climate change, all state entities—but especially MES—should be analyzing how their actions are impacting the state's emissions goals.
- Clarifies that MES employees can collectively bargain subject to the jurisdiction of the Maryland State Labor Relations Board (SLRB). The MGA already extended collective bargaining to MES employees via SB 291 in 2017. This change makes a technical correction to ensure it is in effect.
- Requires that operational contracts of MES valued at \$250,000 or more are subject to approval by the Board of Public Works. This excludes MES's service contracts with state or local governments. Currently MES is exempt this requirement. Because of this, Mr. McGrath was able to enter MES into public relations contracts without proper oversight. The PR firm Mr. McGrath hired helped draft a statement from MES to defend the severance payout. The purpose of this change is not to stop MES from entering into service agreements, but to ensure that those service agreements have the proper oversight under the SLRB so that they cannot be abused in the way Mr. McGrath did.
- Requires the Director to appoint a diversity officer within MES to be the point person on diversity policy and grievances. During the investigation, several former MES employees revealed that Mr. McGrath fostered a secretive culture around MES and that employees often did not know where he was or what he was doing on his expensive trips. A diversity officer would ensure that any MES employee could safely raise grievances about the direction of the agency

Conclusion

The Maryland Environmental Service Reform Act makes vital reforms to restore public trust in an agency marred by scandal and ensures that MES is held accountable for how they spend the taxpayer dollars of Marylanders in the interest of the state.