

SB 293 MES Support.pdf

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Wes Moore GOVERNOR

Aruna Miller LT. GOVERNOR

Charles Glass, Ph.D., P.E. EXECUTIVE DIRECTOR

January 31, 2024

The Honorable Brian Feldman, Chair
Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, MD 21401

Re: Senate Bill 293 - Maryland Environmental Service – Governance and Requirements

Dear Chair Feldman,

The Maryland Environmental Service (MES) supports Senate Bill 293, MES's departmental bill for the 2024 legislative session. MES urges the Committees grant this bill a favorable report.

This bill will strengthen MES's organizational structure and governance statute by allowing for more flexibility and efficiencies without sacrificing any of the important changes made in the MES Reform Act of 2021, all of which have been fully implemented.

While there are several different provisions in this bill, they can be summed up by grouping the changes into three different categories:

Board of Directors: Quorum requirements and Delegation of Authority.

1. For the MES Board of Directors to achieve a quorum, current law requires a super majority (5 of 7 votes). The bill proposes to reduce this to a simple majority (4 of 7 members being present).
2. Delegation of Authority – Board Secretary. MES's governance structure includes a Board Chair, a Board Secretary and a Board Treasurer. The Board Treasurer is authorized to delegate certain duties and responsibilities to a Deputy Treasurer. The bill proposes to authorize the Board Secretary the same type of delegation of authority.

Reporting Requirements.

1. Annual Report and Annual Financial Audit. There is a discrepancy in MES's statute that has caused some confusion when obtaining the annual independent financial audit. In NR § 3-126(d), the requirement is listed as "as soon as practical after the close of the fiscal year"; but in NR § 3-103(h) MES must, "within the first 90 days of each fiscal year...make a report...of its activities for the preceding fiscal year. Each such report shall set forth the complete operating and financial statement covering the Service's activities during such year...". We propose to marry these two similar requirements and require them both to be submitted to the Governor and General Assembly no later than October 31.
2. Misallocated Expenses Audit. As part of the MES Reform Act, a requirement was placed on MES to obtain a separate financial audit for "unauthorized spending, misallocated expenses, lack of conformity with State law or Board policies, and other accounting errors". MES completed this audit in May 2022. During the ensuing 2023 session, the Department of Legislative Services advised MES that they interpreted this provision as being a one-time audit requirement. Consequently, MES proposes removing this from statute as it is no longer needed.

Contract Issues:

1. Definition of Municipality. This provision would expand the definition of "municipality" in MES's governing statute to also include the District of Columbia and federal entities.
2. Proposal vs. Contract. This provision would grant flexibility to MES when a request for services is received by allowing MES to instead provide a proposal for services requested. This can provide the requesting entity with a looser understanding of costs for services without having to provide precise contractual terms.

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MES Board of Directors - Support - SB 293 HB 78.pd

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Board of Directors

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Chair

Hon. Frederic N. Smalkin
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James H. Johnson Jr.,
Ph.D., P.E.

Dereck E. Davis
State Treasurer

Charles C. Glass, Ph.D., P.E.
Executive Director

The Honorable Ben Barnes, Chair
Appropriations Committee
Room 121, House Office Building
Annapolis, MD 21401

The Honorable Marc Korman, Chair
Environment & Transportation Committee
Room 251, House Office Building
Annapolis, Maryland 21401

Honorable Brian Feldman, Chair
Education, Energy and Environment Committee
2 West Miller Senate Building
Annapolis, MD 21401

**Maryland Environmental Service Board of Directors Support Testimony on
House Bill 78 and Senate Bill 293**

January 24, 2024

Dear Chairs Feldman, Barnes and Korman:

The Maryland Environmental Service Board of Directors (Board) had its monthly meeting for the month of January 2024 this morning. During the meeting, we heard a presentation on the provisions that are in House Bill 78 and Senate Bill 293, "Maryland Environmental Service – Governance and Requirements". These two bills are crossfiled and were introduced by MES. The House bill had its hearing on Tuesday, January 23 and the Senate Bill will be heard on Wednesday, January 31.

The Board voted unanimously to support these two bills, with the following comments:

Board quorum: as introduced, this bill would lower the threshold for the number of

Board members needed to achieve a quorum down to four (currently five). During the discussion, Maryland State Treasurer Derek Davis advised the Board that his office is in the process of drafting and will introduce a bill that would remove the State Treasurer from a number of different Boards, one of them being the MES Board. That would put in question how to handle both the quorum and vote threshold requirements. It is the consensus of the Board that if the legislature decides it is appropriate to remove the State Treasurer from the Board, and no other members are added to replace the State Treasurer, both the quorum and vote thresholds should be lowered to four. Removing the State Treasurer without replacing that spot would reduce the Board to six voting members. Therefore, lowering the threshold for both quorum and voting to four of six members would maintain the supermajority threshold for both quorum and agenda items that need the Board's approval. If, however, the legislature decides to maintain a seven-member Board (whether that is through keeping the State Treasurer or removing the State Treasurer but adding an additional member) the Board consensus is to be supportive of lowering the quorum threshold to four but keep the elevated voting threshold at five.

With these comments in mind, the MES Board of Directors supports House Bill 78 and Senate Bill 293 and urges the Committees to issue a favorable report.

Respectfully,



Shelley Heller
Chair, Board of Directors

Contact:

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