

# HOUSE BILL 78

M3  
HB 2/21 – APP & ENT

(PRE-FILED)

4lr0382  
CF SB 293

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By: **Chair, Appropriations Committee (By Request – Departmental – Maryland Environmental Service)**

Requested: September 17, 2023

Introduced and read first time: January 10, 2024

Assigned to: Appropriations

Reassigned: Appropriations and Environment and Transportation, January 17, 2024

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Environmental Service – Governance and Requirements**

3 FOR the purpose of ~~altering the quorum threshold for the Board of Directors of the~~  
4 ~~Maryland Environmental Service~~; authorizing the Secretary of the Board to delegate  
5 certain responsibilities to an employee of the Service; altering the obligations of the  
6 Service after receiving a request for services and after entering into a contract;  
7 altering the deadlines for certain audits and reports; repealing a certain audit  
8 requirement; and generally relating to the Maryland Environmental Service.

9 BY repealing and reenacting, without amendments,  
10 Article – Natural Resources  
11 Section 3–101(a) and 3–103(a) and (e)(2)  
12 Annotated Code of Maryland  
13 (2023 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Natural Resources  
16 Section 3–101(j), 3–103**(b)(5)** ~~and~~ (d), 3–107(b), and 3–126(d) and (h)  
17 Annotated Code of Maryland  
18 (2023 Replacement Volume and 2023 Supplement)

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

3 **Article – Natural Resources**

4 3–101.

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

6 (j) “Municipality” means any county, municipal corporation, sanitary district,  
7 State or local unit, **THE DISTRICT OF COLUMBIA, THE UNITED STATES OR ANY OF ITS**  
8 **UNITS**, or other public body or unit created or established by or [pursuant to] **IN**  
9 **ACCORDANCE WITH FEDERAL**, State, or local law, ordinance, or resolution.

10 3–103.

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

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

16 ~~(b) (5) (i) [Five] FOUR members constitute a quorum for the transaction~~  
17 ~~of business of the Board.~~

18 ~~(ii) The affirmative vote of at least five members is necessary for any~~  
19 ~~action taken by the Board.~~

20 (d) (1) The Secretary:

21 (i) Shall keep a record of the proceedings of the Board and be  
22 custodian of all books, documents, and papers filed with the Service and of the minute book  
23 or journal of the Service and its official seal;

24 (ii) May have copies made of all minutes, records, and documents of  
25 the Service and certify them to be true copies under the official seal of the Service; and

26 (iii) May, with the approval of the Board, delegate to another member  
27 of the Board, during an absence of the Secretary, any duty enumerated in items (i) and (ii)  
28 of this paragraph.

29 (2) Any person dealing with the Service may rely on the certificates  
30 described in paragraph (1)(ii) of this subsection, and certified copies shall be received as  
31 evidence in any court or other tribunal in the State, in the same manner and with the same  
32 effect as if the original books, papers, entries, records, or proceedings could be produced.

1           **(3) WITH THE APPROVAL OF THE BOARD, THE SECRETARY MAY**  
2 **AUTHORIZE AN EMPLOYEE OF THE SERVICE TO SERVE AS DEPUTY SECRETARY AND**  
3 **TO PERFORM THE FUNCTIONS SET FORTH UNDER PARAGRAPHS (1) AND (2) OF THIS**  
4 **SUBSECTION ON BEHALF OF THE SECRETARY, SUBJECT TO ANY RESTRICTIONS AND**  
5 **CONDITIONS THAT THE SECRETARY ESTABLISHES.**

6           (e)   (2)   (i)   With the approval of the Board, the Treasurer may authorize an  
7 employee of the Service to serve as Deputy Treasurer and to disburse money for the  
8 purposes of the Service as provided by law, and subject to restrictions and other conditions  
9 that the Treasurer establishes.

10                           (ii)   The Deputy Treasurer shall be covered by a surety bond in  
11 accordance with the provisions of law concerning the State Employees Surety Bond  
12 Committee.

13 3-107.

14           (b)   (1)   Notwithstanding any limitations or other provisions to the contrary of  
15 Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government  
16 Article, or of any charter or local law regulating the procurement or awarding of public  
17 contracts, a municipality may enter into contracts with the Service for the purpose of the  
18 Service providing any of the projects or services requested by the municipality.

19           (2)   **(I)**   As soon as possible after receipt of a duly authorized request from  
20 a municipality or person, the Service shall [draft] **PROVIDE A PROPOSAL OR** a proposed  
21 contract with the municipality or person in accordance with the provisions of this subtitle  
22 specifying the type of project or services to be provided, whether or not a service district  
23 will be established, the boundaries and effective date of any service district, and the terms,  
24 conditions, and costs under which the project or services will be provided.

25                           **(II) EXCEPT AS PROVIDED IN §§ 3-109 AND 3-110 OF THIS**  
26 **SUBTITLE, THE SERVICE IS NOT OBLIGATED TO PROVIDE A PROJECT OR SERVICES**  
27 **TO A MUNICIPALITY OR A PERSON BEFORE A CONTRACT HAS BEEN EXECUTED BY**  
28 **THE PARTIES.**

29           (3)   [Upon execution of the contract, the] **THE** Service [as soon as possible]  
30 shall [establish any service district provided for in the contract and] provide **ANY**  
31 **SERVICES AND PROVIDE**, maintain, and operate [the necessary] A project **IN**  
32 **ACCORDANCE WITH THE TERMS IN THE CONTRACT.**

33           (4)   For the purposes of this subsection, the express powers contained and  
34 enumerated in Division II and Title 10 of the Local Government Article and in the Charter  
35 of the City of Baltimore are deemed to incorporate and include the power and authority  
36 contained in this subsection.

37 3-126.

1 (d) (1) (i) [1. As soon as practical after the closing of the fiscal year] **ON**  
2 **OR BEFORE ~~OCTOBER 31~~ NOVEMBER 15 EACH YEAR**, an audit shall be made of the  
3 financial books, records, and accounts of the Service.

4 [2.] (II) The audit shall be made by independent certified  
5 public accountants, selected by the Service and licensed to practice in the State.

6 [3.] (III) The accountants:

7 [A.] 1. May not have a personal interest either directly or  
8 indirectly in the fiscal affairs of the Service; and

9 [B.] 2. Shall be experienced and qualified in the  
10 accounting and auditing of public bodies.

11 [4.] (IV) The report of audit shall be prepared in accordance  
12 with generally accepted auditing principles and point out any irregularities found to exist.

13 [5. A.] (V) 1. The accountants shall report the  
14 results of their examination, including their unqualified opinion on the presentation of the  
15 financial position of the various funds and the results of the Service's financial operations.

16 [B.] 2. If the accountants are unable to express an  
17 unqualified opinion, they shall state and explain in detail the reasons for their  
18 qualifications, disclaimer, or opinion including recommendations necessary to make  
19 possible future unqualified opinions.

20 [(ii) Subject to subparagraph (i) of this paragraph and either as a  
21 separate part of the audit required under subparagraph (i) of this paragraph or as an  
22 individual audit, the Service shall obtain an audit that focuses on unauthorized spending,  
23 misallocated expenses, lack of conformity with State law or Board policies, and other  
24 accounting errors.]

25 (2) The Board shall review an audit prepared under paragraph (1) of this  
26 subsection at a meeting of the Board and make any changes or recommendations that the  
27 Board considers appropriate based on the audit.

28 (3) The Service shall:

29 (i) Provide to the Department of Budget and Management:

30 1. A copy of an audit prepared under paragraph (1) of this  
31 subsection; and

