



LARRY HOGAN  
GOVERNOR

STATE OF MARYLAND  
OFFICE OF THE GOVERNOR

September 23, 2020

The Honorable Bill Ferguson  
President  
Maryland Senate  
H-107 State House  
100 State Circle  
Annapolis, MD 21401

The Honorable Adrienne A. Jones  
Speaker  
Maryland House of Delegates  
H-101 State House  
100 State Circle  
Annapolis, MD 21401

Dear President Ferguson and Speaker Jones:

On August 18, after concerns came to light regarding problems at the Maryland Environmental Service, we took several immediate actions and we pledged to collaborate with the legislature on bipartisan reforms to the governing structure and oversight of this entity.

As we all discussed in our meeting last week, it is clear that there are issues regarding the governance structure, oversight, and management of the Maryland Environmental Service which we must jointly address.

This corporation was created by an act of the General Assembly in 1993, when it was removed as a state agency. Although MES does important business for state, county, municipal governments and for private entities, it is an independent entity.

Although it is a quasi-government instrument of the state, it operates outside the state personnel system, the state procurement system, and receives no direct appropriations of state funds.

Recent developments raise serious issues with respect to the lack of financial oversight and controls. There are concerns with how MES handles expense reimbursements, salaries, bonuses, and their longstanding practice of paying generous severance packages to their departing directors and executives.

**Replacing Chair of Board of Directors and Executive Staff**

As soon as issues first arose last month, we took a series of immediate actions:

- We requested that the new executive director, Dr. Charles Glass, begin a top-to-bottom review of MES operations. In response, he initiated immediate actions to correct the management and operations of the entity.

- In addition to the previous resignations of the Director and the Deputy Director, Dr. Glass also removed the board treasurer, Michael Harris, the corporation's Managing Director of Finance, and the board secretary, Dr. Richard Streett, Jr. Another member of the board, William Addison, Jr., former Secretary of the Senate, resigned as well. After these actions, the Board of Directors lacked a quorum to conduct business.
- In an effort to bring immediate accountability and oversight to MES, we are appointing the **Honorable Frederic N. Smalkin**, retired Chief Judge of the United States District Court for the District of Maryland, as the new secretary of the board.

### **DBM Audit Ordered And Underway**

Historically, only the legislature's Department of Legislative Services and various private sector firms conducted audits of MES. However, it is now clear that MES had persistent systemic issues that fell through the cracks, and which the DLS and outside auditors failed to sufficiently identify or address.

Although MES is not a state agency in the executive branch and does not have direct appropriations from the state, given the urgent circumstances, I last month directed the Department of Budget and Management to conduct an immediate and thorough financial audit, which is now ongoing. The audit will also focus on the governance, policies, and decision protocols related to salaries, expenses, bonuses, and severance payments.

### **Legislation to Improve Governing Structure and Provide Additional Oversight**

Additional actions are necessary to correct some of these longstanding issues, but can only be done by legislation. As I said in our meeting last week, we look forward to working together with you on bipartisan legislation to address these problems and to reform this entity. Our legislative affairs office is now reviewing potential reforms and solutions.

Reforms could include three potential options:

1. **Substantial changes to governing structure and oversight capability.** The structure established by the General Assembly makes the executive director the chair of the board, and gives the chair the ability to appoint the vice chair, treasurer, and secretary. The executive director, the deputy director and other staff should not serve on the oversight board, and the executive director should not be able to handpick board members. The board should also operate under strict ethics rules and requirements similar to other agencies in state government. Personnel policies and protocols for senior staff, including for compensation and bonuses, should be brought into line with those in place at state agencies. State budget officials should be empowered to conduct regular audits. Perhaps the state treasurer and budget secretary should be added to the board to provide more state oversight.
2. **Restore MES as a state agency.** As you know, MES began as a part of the Department of Natural Resources. When the General Assembly recreated MES as a quasi-public corporation in 1993, it gave MES broad flexibility, including exemptions from key provisions of state personnel, ethics and procurement laws. If MES cannot be reformed under its existing structure to ensure it will use these privileges responsibly, it should be pulled back into state government as a principal department of the

Executive Branch, or returned to be a division within DNR.

- 3. Move to sell MES to the private sector.** One of the principles that apparently drove the General Assembly's decision to make MES a quasi-public entity was a belief that MES needed the flexibility of a private-sector entity to effectively perform its mission. It functions as a private entity, but it is a corporation that serves as an instrument of the state. Instead, MES could be spun off to the private sector. Such a transaction would allow the state to monetize the economic value that has been created in MES, and allow MES to fully function with the flexibility of a private-sector entity.

We look forward to working with you to address the systemic problems, improve the governance structure, and increase the oversight of MES in a collaborative, bipartisan process that puts the best interests of Marylanders first.

Sincerely,



Larry Hogan  
Governor