

MARYLAND ENVIRONMENTAL SERVICE

Board Governance Assessment

Deliverable Report

Analysis, Observations and Recommendations

December 15th, 2021

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EXECUTIVE SUMMARY

Project Background and Purpose

Background

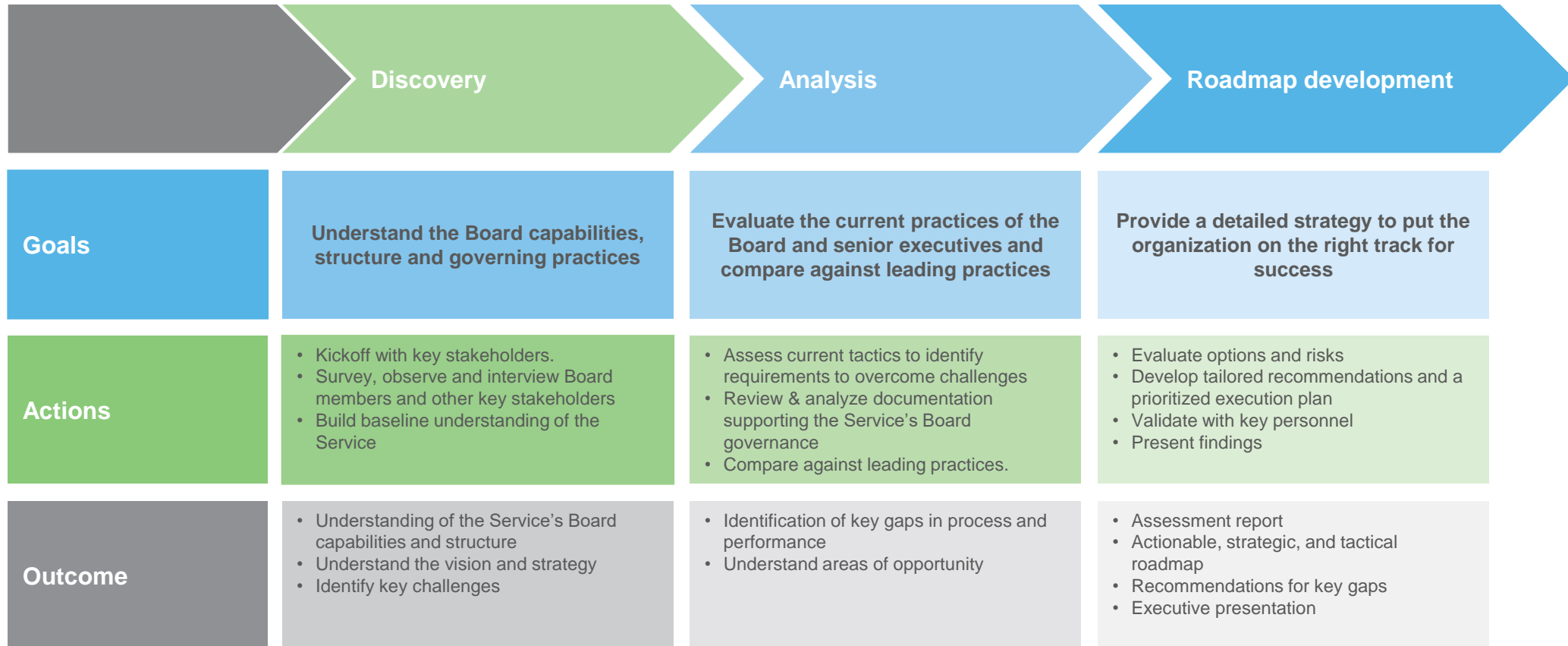
- As part of the General Assembly enacted Maryland Environmental Service Reform Act of 2021, the Service is required to engage an independent consultant or accountant to preform an assessment evaluating the Board of Directors across various measures every five years. The Service selected RSM to complete this assessment addressing and observing the items as listed to the right. This report summarizes our efforts with observations and recommendations.
- Due to the nascent relationship of this Board, the members continue to become educated on the mission and work done by the Service, continuing to guide it in the direction that will benefit all stakeholders.

Assessment Items to Address

- 1.The structure of the Board, including the Board's:
 - a.Composition
 - b.Charter, bylaws, and other governing documents
 - c.Diversity
 - d.Subcommittees or workgroups
 - e.Frequency of meetings
- 2.The dynamics and functioning of the Board, including
 - a.The Board's annual calendar
 - b.Access to information
 - c.Communication with Service personnel
 - d.Planning
 - e.Cohesiveness and conduct of Board meetings.
- 3.The Board's role in the Service's short-term and long-term strategy
- 4.The financial reporting process, internal audit, and internal controls
- 5.The Board's role in monitoring the Service's policies, strategies, and systems
- 6.The Board's role in supporting and advising the Service
- 7.The role of the Chair of the Board
- 8.Any other issue relevant to the Board's operations

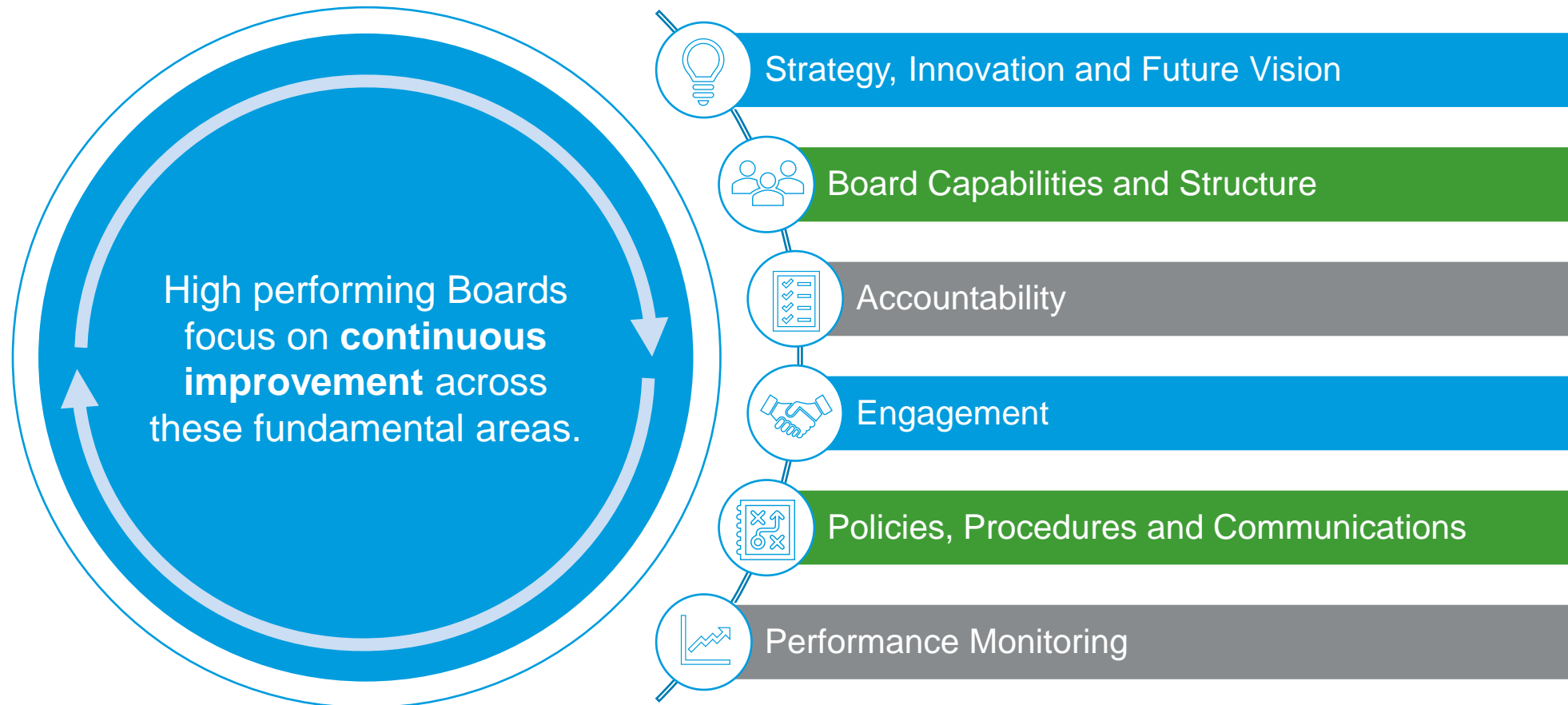
Our Approach

We utilized our unbiased, independent diagnostic evaluation that helps Boards identify key initiatives that lead to improved governance and mission achievement.



RSM Board Governance Framework

Our Framework focuses on the following Board governance fundamentals and our work streams and recommendations are aligned with this framework.



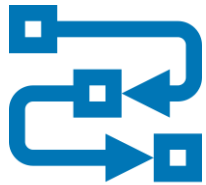
Project Participant Acknowledgement

Many participants helped make this assessment possible. RSM thanks you for your participation!

MES Board Members	MES Management
Judge Fredric N. Smalkin, Chair	Charles Glass, Ph.D., P.E., Executive Director
Robert L. Witt, II, Secretary	Ellen Frketic, Deputy Director
Robert R. Neall, Treasurer	Sean L. Coleman, Assistant Attorney General and Principal Counsel
Charles Glass, Ph.D., P.E., Member (Non-voting)	Hament Patel, Managing Director, Finance
Shelley L. Heller, Member and Chair, Audit Committee	Pamela Fuller, Paralegal
Marian C. Hwang, Member and Chair, Human Resources Committee	Jana Leech, Executive Associate
Nancy K. Kopp, Board Member	
Hiram L. Tanner, Jr., P.E., Board Member	

Summary Observations

Based on our review of documents, leading practices, and interviews with Board members and Service management and staff, six key observations are summarized, listed below:



Significant transparency noted during observation of the Board



The organizational changes made in accordance with the Reform Act appeared to have adequately segregated roles and responsibilities between the Board and management



Meeting structure and level of conversation foster positive engagement



The strategic priority has been focused on meeting the requirements laid out by the Reform Act



Information distributed is well suited to make decisions



While there are opportunities for continued improvement, there were no major concerns noted during observation


Summary of Recommendations

Recommendations are summarized in the table below. There are detailed observations and recommendations in the section following.

Framework Area	Recommendation
<p>Strategy, Innovation and Future Vision</p>	<ul style="list-style-type: none"> • Increase in-person/virtual director exposure to current Service activities to include worksite/facility visits and staff interactions to drive continuous learning and operational understanding. • After successful closure of Reform Act items, Board and Service leadership should rebalance focus to include both short-term and long-term strategies. Provide guidance into the Service’s new forthcoming five-year strategic plan. • After successful closure of Reform Act items, Service leadership should provide the Board visibility to key risks associated with everyday operations: Ex. <ul style="list-style-type: none"> • Critical project tracking across portfolio • Safety concerns and lost time incidents • Sales pipeline • Other environmental matters • Cyber vulnerabilities • Support function operations
<p>Board Capabilities and Structure</p>	<ul style="list-style-type: none"> • Formally develop a charter and bylaws for the Board and all committees by year end, 2022. • For any topics that fall outside of the defined scope of the committees, items should be dealt with at a Board level.
<p>Accountability</p>	<ul style="list-style-type: none"> • Develop formalized onboarding approach including a formal orientation with a standardized packet of materials and appropriate protocols, required trainings, etc. • Require cyber awareness training in addition to the current training curriculum.

Summary of Recommendations (Continued)

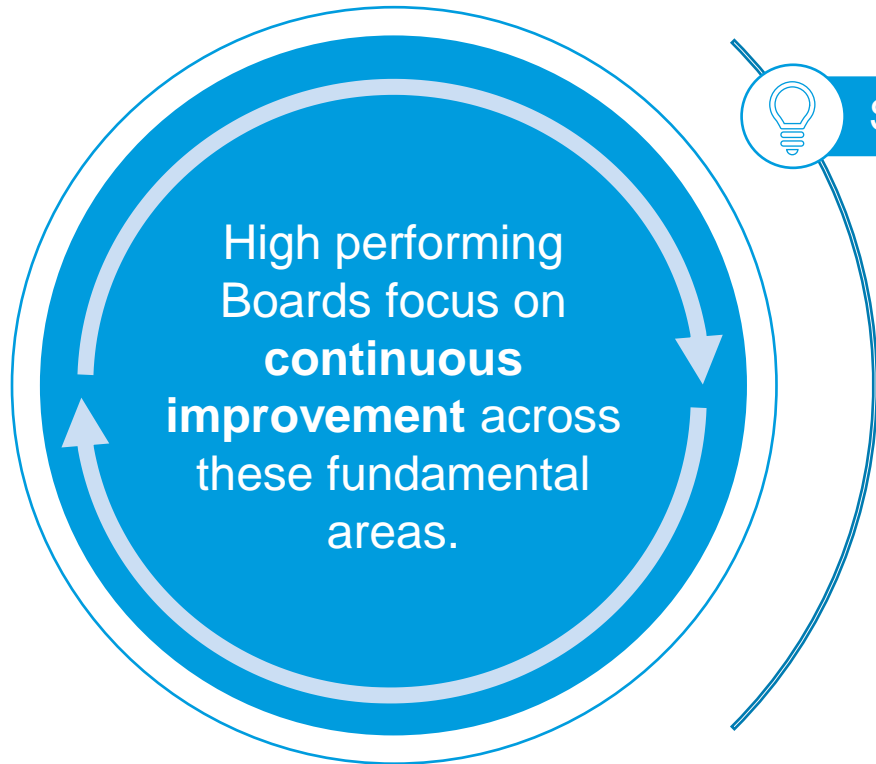
Framework Area	Recommendation
Engagement	<ul style="list-style-type: none"> Survey Board members to determine optimal prep-material delivery prior to Board meetings.
Policies, Procedures and Communications	<ul style="list-style-type: none"> Formally develop a charter and bylaws for the Board and all committees. Leverage the most recently developed policies, providing ability to measure relative compliance and/or performance accordingly.
Performance Monitoring	<ul style="list-style-type: none"> At least annually, the Board should “take a step back” and self evaluate its own performance. This should include incorporating internal and external perspectives and utilize both open conversation as well as anonymous surveys. As conversations shift towards medium and long-range strategy, key performance metrics should be defined and aligned with the agency’s mission and values. Example areas to be measured include: <ul style="list-style-type: none"> Critical project tracking across portfolio Safety concerns and loss time incidents Human resource management and labor relations Sales pipeline Support function operations Executive Director performance



DETAILED OBSERVATIONS AND RECOMMENDATIONS

Strategy, Innovation and Future Vision

Framework Area 1 – Leading Practices



Strategy, Innovation and Future Vision

- Members devote more time to generating ideas and affirming key strategic priorities for the organization. Accordingly, Board meetings have more time available for structured and non-structured strategic thinking about the way forward.
- Boards balance time spent on current monitoring of the organization with future visioning.
- Societal changes and technological developments require constant adaptation and innovation, both in the organization's operations, and in how it identifies and addresses the changing needs of constituents.

Strategy, Innovation and Future Vision

Framework Area 1

Alignment Focus	Observations	Recommendations
<p>Understanding of operations and strategies of the organization</p>	<p>Service Operations</p> <ul style="list-style-type: none"> • Overall, all members present an appropriate understanding of the Service’s general operations. • All members understand the actions associated with the Reform Act and the priority level importance. <p>Service Strategy</p> <ul style="list-style-type: none"> • There is shared understanding between Service management and Board members regarding driving transparency, workplace safety, operational excellence, and valuing their diverse workforce. 	<ul style="list-style-type: none"> • Increase in-person/virtual director exposure to current Service activities to include worksite/facility visits and staff interactions to drive continuous learning and operational understanding.
<p>Strategic planning oversight</p>	<ul style="list-style-type: none"> • Based upon interviews, Service leadership expressed they intend to expand agenda items to include strategy in the new calendar year. • It is recognized that Board capacity is currently focused on Reform Act requirements, therefore limiting capacity to review strategic plans and provide guidance. 	<ul style="list-style-type: none"> • After successful closure of Reform Act items, Board and Service leadership should rebalance focus to include both short-term and long-term strategies. Provide guidance into the Service’s new forthcoming five-year strategic plan.

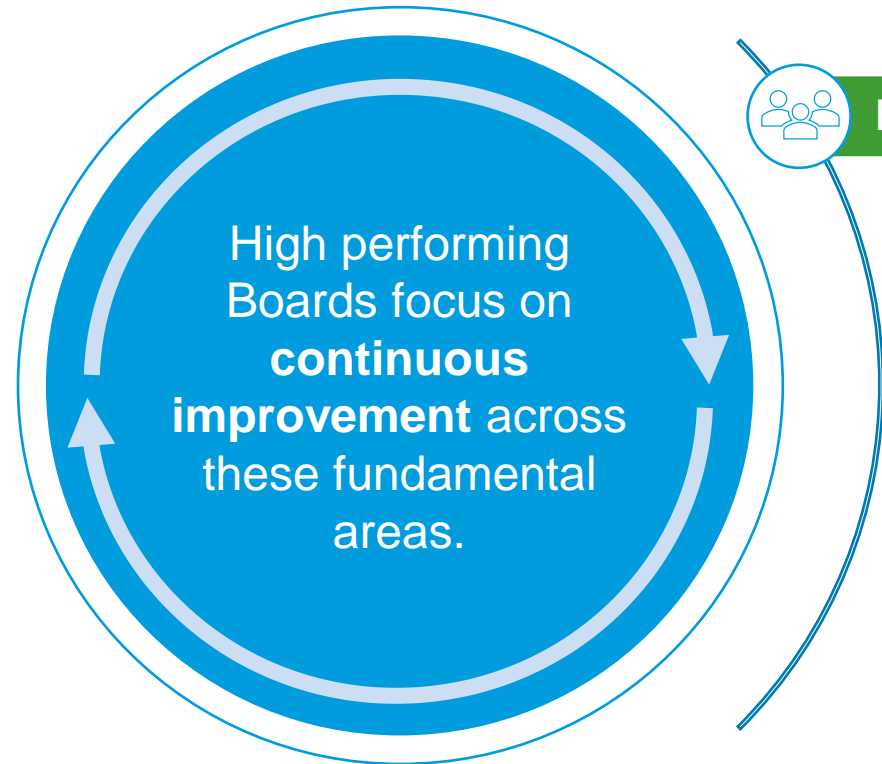
Strategy, Innovation and Future Vision

Framework Area 1

Alignment Focus	Observations	Recommendations
<p>Knowledge of the organization's strategic risks</p>	<ul style="list-style-type: none">• Current Board oversight outside of the Reform Act actions is focused on financial audit, HR, and procurement related activities.• Understanding of everyday business risk for the organization appears to be somewhat limited.	<ul style="list-style-type: none">• After successful closure of Reform Act items, Service leadership should provide the Board visibility to key enterprise risks associated with everyday operations: Ex.<ul style="list-style-type: none">• Critical project tracking across portfolio• Safety concerns and loss time incidents• Sales pipeline• Cyber vulnerabilities• Other environmental matters• Support function operations

Board Capabilities and Structure

Framework Area 2 – Leading Practices



Board Capabilities and Structure

- The best performing Boards are more than the sum of their parts: the members ideally share a common goal in the organization’s mission and work well together to achieve this end.
- A good balance is created including skills and expertise, a diversity of background and thinking, and having the right number of members, committees, project teams and task forces.
- Having a flexible board structure allows for changes in size during a variety of circumstances.

Board Composition

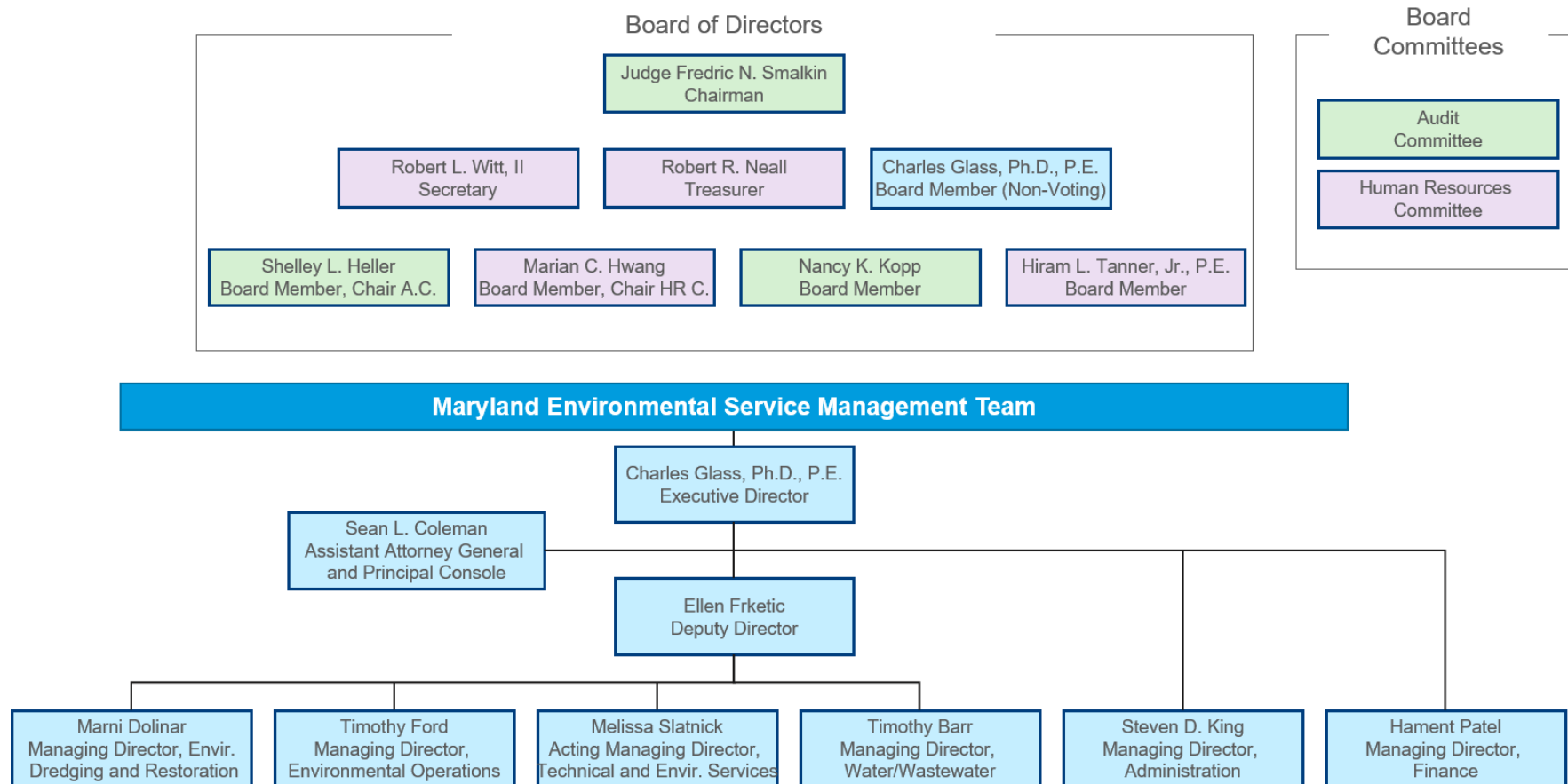
As stated in the Reform Act, there are requirements to include specifically identified capabilities of appointed Board members. Board composition appears to be in line with the intent of the Reform Act.

Board Position	Billet	Appointee	Appointment Compliance
Board Chair ¹	Private Sector	Hon. Frederic N. Smalkin	Is compliant with Reform Act
Secretary ²	Public Sector	Robert L. Witt II	Is compliant with Reform Act
Treasurer ³	Private Sector	Hon. Robert R. Neall	Is compliant with Reform Act
Member	State Treasurer or designee	State Treasurer Nancy K. Kopp	Is compliant with Reform Act
Member (Non-voting) ⁴	Director	Charles Glass, Ph.D., P.E.	Is compliant with Reform Act
Member, Chair HR Committee ⁵	Private Sector	Marian C. Hwang	Is compliant with Reform Act
Member, Chair Audit Committee ⁶	Public Sector	Shelley L. Heller	Is compliant with Reform Act
Member ³	Public Sector	Hiram L. Tanner Jr., P.E.	Is compliant with Reform Act

1. Private sector, in the State with expertise in matters related to business ethics, preferably involving Board of director ethics and conflicts of interest.
2. Public sector, in the State in position responsible for environmental, water, wastewater, or solid waste management.
3. Private sector, in the State with financial experience related to environmental, water, wastewater, or solid waste management.
4. Appointed by Governor as a non-voting member.
5. Private sector, in the State with Technical, Financial, Developmental or Legal experience related to environmental, water, wastewater, or solid waste management.
6. Public sector, appointed by Governor, Maryland Association of Counties/Maryland Municipal League Nominee.

Maryland Environmental Service – Board and Leadership Structure

Shown below is the Board of Directors and leadership structure of the Service. There are two sub-committees, the Audit Committee and the Human Resources Committee highlighted in green and purple respectively. The Service leadership is highlighted in blue.



Board Sub-Committees

Based on document review and Board member interviews, the Audit and Human Resources sub-committees appear to be in alignment with current leading practices. Meeting attendance has been at or near 100% attendance either virtually or in-person.

Audit Committee

- Per MES Resolution 02-08-IR: *The Audit Committee was formed to periodically review the auditing, accounting and financial management practices and procedures of the Service and make recommendations to the Board.*
- The Audit Committee meets quarterly and as needed.
- Audit Committee agendas typically include annual internal audit report, financial policy review, and external audit touchpoints and reviews.
- After each Audit Committee meeting the committee chair reports up to the full Board at the next Board meeting.
- The Audit Committee is currently operating without a formal charter. Roles and responsibilities of each member are not fully described.

Human Resources Committee

- Per MES Resolution 02-08-IR: *The Human Resource Committee was formed to periodically review the Service's human resources program, employee compensation strategies and policies and make recommendations to the Board accordingly.*
- The HR Committee will have met five times since March 2021 as of November 18th, 2021.
- The HR Committee currently operates without a formal charter. Roles and responsibilities of each member are not fully described.
- HR Committee agendas typically include HR policy reviews, closed sessions on private personnel matters as needed, and other HR topics and programs.
- After each HR Committee meeting the committee chair reports up to the full Board at the next Board meeting.

Board Capabilities and Structure

Framework Area 2

Alignment Focus	Observations	Recommendations
<p>Board member talents and capabilities</p>	<ul style="list-style-type: none"> • Board is compliant in composition as mandated by the Reform Act. • Based upon interviews, Board members are satisfied with the diversity of talent and experience. <ul style="list-style-type: none"> • This is inline with leading practices for diversity of talent and capability. • These members are providing their unique talents for the benefit of Board governance. • Current Board composition is reasonably diverse. • Board composition is comprised of members from across the State. 	<ul style="list-style-type: none"> • No recommendations at this time.
<p>Committee responsibilities</p>	<ul style="list-style-type: none"> • Board members sufficiently understand and embrace their responsibilities. • Current committee responsibilities appear appropriate. • Each member of the Board participates on one of the two subcommittees. • Conversations and items brought to the Board and committees appear to be at the appropriate level for members to make decisions. 	<ul style="list-style-type: none"> • Formally develop a charter and bylaws for the Board and all committees by year end, 2022. • For any topics that fall outside of the defined scope of the committees, items should be dealt with at a Board level.

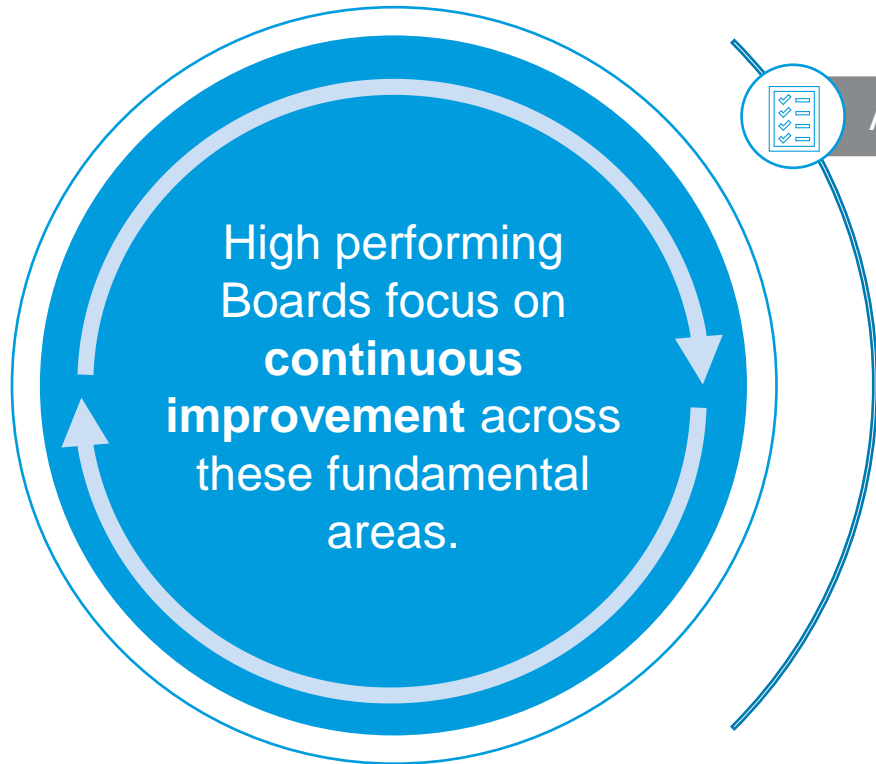
Board Capabilities and Structure

Framework Area 2

Alignment Focus	Observations	Recommendations
Additional Committees	<ul style="list-style-type: none">• When asked, Board members differed on opinions for the necessity of additional committees.• Most believe current committees are sufficient with possibility of ad hoc.• A few shared interest in additional committees such as budgeting, strategic planning or technical however having additional standing committees could stretch the current Board thin and may be better served by simply expanding details in these areas as needed for the entire Board.• Additional Board members would likely be needed for successful new committees.• Comparative organizations often have more committees than the Service but those also usually have additional Board members.	<ul style="list-style-type: none">• No recommendations at this time.

Accountability

Framework Area 3 – Leading Practices



Accountability

- Board members have ultimate fiduciary responsibility, but they also need to be aligned to organization’s core purpose.
- Governance is about setting the agenda, challenging assumptions about the organization, and identifying the underlying values that drive strategy to determine “what exactly are we trying to accomplish?”...and demonstrating active governance to achieve aligned objectives.
- Substantial knowledge and training about the organization and its services are crucial for Board members to effectively govern and serve the intended audiences.

Accountability

Framework Area 3

Alignment Focus	Observations	Recommendations
<p>Onboarding and training</p>	<ul style="list-style-type: none"> Onboarding experience to date has been generally informal including a one-on-one with Executive Director. No formalized onboarding approach. Executive director makes members feel welcomed and provides insight on Service’s operations. There is training held annually for Board members, the most recent training held in September 2021 included topics on ethics, sexual harassment awareness and prevention, standard of care, and diversity, equity, and inclusion. <ul style="list-style-type: none"> All members reported participating apart from Mr. Tanner who was provided the relevant materials for self-study. Opportunities to tour project sites for situational awareness are available to Board Members. 	<ul style="list-style-type: none"> Develop formalized onboarding approach including a formal orientation with a standardized packet of materials and appropriate protocols, required trainings, etc. Require cyber awareness training in addition to the current training curriculum.
<p>Meeting Dialogue</p>	<ul style="list-style-type: none"> Observed conversations were relevant to meeting agenda and conducted in an efficient and appropriate fashion. Board members participate regularly with healthy inquiry, no evidence of members dominating or not participating was observed. Both the Audit and HR committees include sufficient participation among members. Both committees are required to report to the full Board following a meeting with summarization of key financial and HR related matters. 	<ul style="list-style-type: none"> No recommendations at this time.

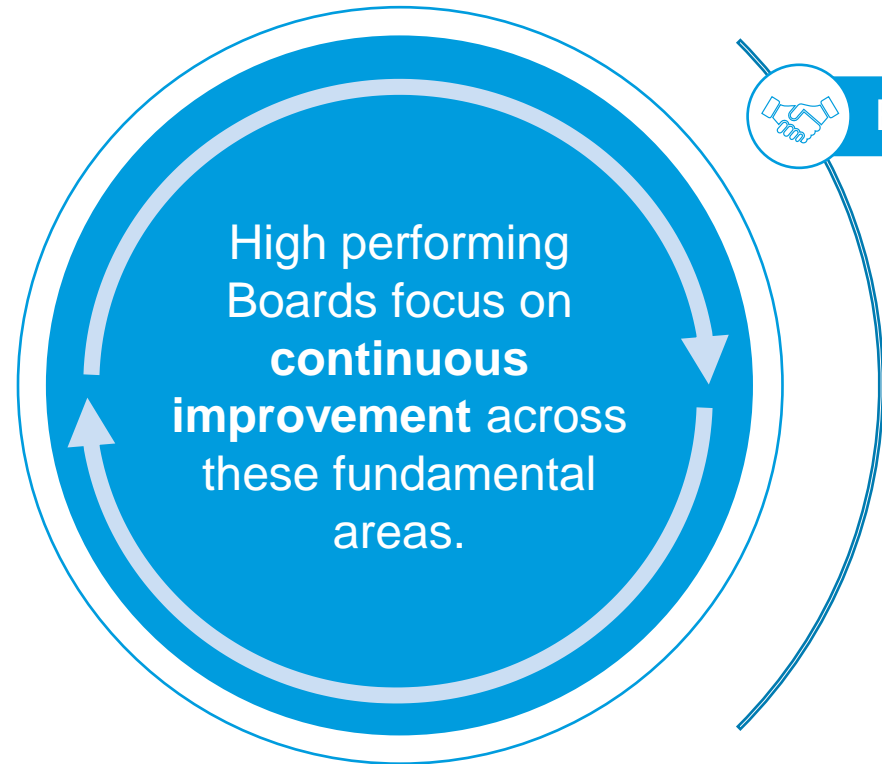
Accountability

Framework Area 3

Alignment Focus	Observations	Recommendations
Voting Process	<ul style="list-style-type: none">• 5 members constitute a quorum for the transaction of business of the Board.• An affirmative vote of at least 5 members is stipulated to take any action.• Board members appear to receive adequate information to make inform voting.• Consensus is generally sought.• Board members are comfortable asking for additional information or clarification when necessary.• Based upon information provided and interviews, voting process appears to be in line with leading practice.	<ul style="list-style-type: none">• No recommendations at this time.

Engagement

Framework Area 4 – Leading Practices



Engagement

- Members commit and engage, apply their talents, and where appropriate, consult with constituents and other interested parties to provide the desired level of individual contribution optimizing the collective Board's impact.
- Members are committed to keeping their focus directed on the tasks at hand and making informed decisions when required of them.
- With having ample notice of scheduled meetings, attendance is a priority for Board members.

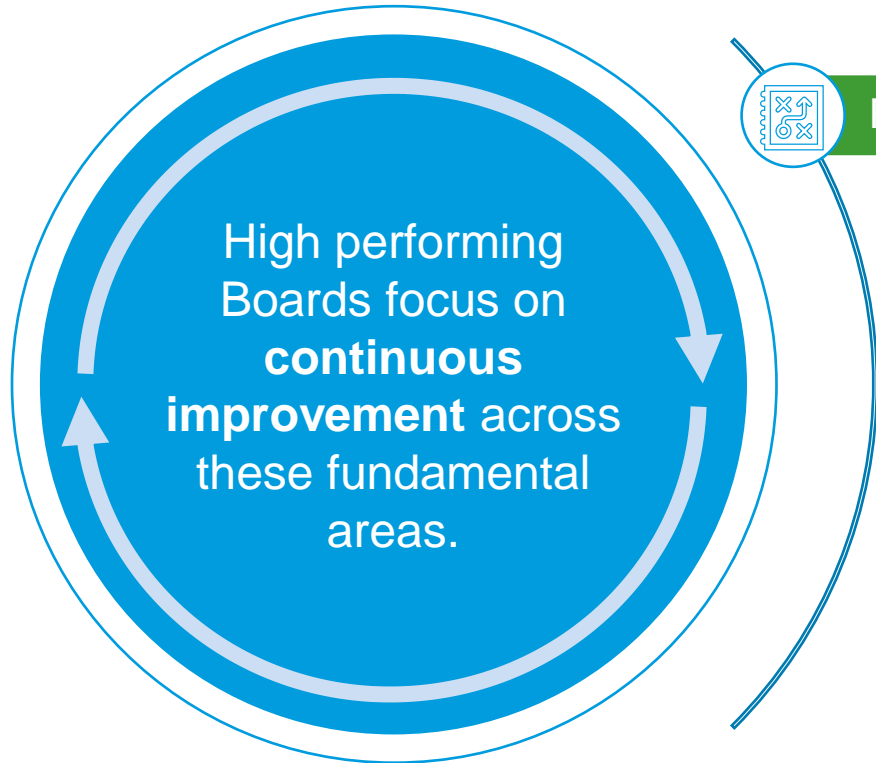
Engagement

Framework Area 4

Alignment Focus	Observations	Recommendations
<p>Service Information provided prior to meetings</p>	<ul style="list-style-type: none"> • Board meeting packages are provided the Friday before the upcoming meeting, the following Thursday. • Members feel that prep-material is sufficient and that the Service is forthcoming with associated queries and considerations. • Some members expressed the desire to receive their meeting packages earlier. 	<ul style="list-style-type: none"> • Survey Board members to determine optimal prep-material delivery prior to Board meetings.
<p>Largest challenges as a (new) Board member</p>	<ul style="list-style-type: none"> • Satisfying the requirements of the Reform Act requires significant time and effort. • All Board members report considerable effort required to balance general member duties, committee assignments with additional commitments related to Reform Act monitoring. • Hybrid meetings limit in person interaction between members and Service leadership and present challenges. 	<ul style="list-style-type: none"> • No recommendations at this time.
<p>Individual Board member meeting preparation</p>	<ul style="list-style-type: none"> • Members are adequately preparing for meetings by reading packages provided generally in advance. • Board members are free to ask clarifying questions prior to meetings. • Board members converse with the Executive Director and Managing Directors as needed. 	<ul style="list-style-type: none"> • No recommendations at this time.

Policies, Procedures and Communication

Framework Area 5 – Leading Practices



Policies, Procedures and Communications

- The Board directs the affairs of the organization, and ensures that it is financially stable, well-run, and delivering outcomes for the benefit of the constituents it serves.
- A solid foundation of policies and procedures and an effective platform for the Board members to conduct business and communicate are necessary.
- The Board follows leading practice for creation of and compliance with governing documents or bylaws that provide insight on the way the Board runs the normal course of business.

Policies, Procedures and Communication

Framework Area 5

Alignment Focus	Observations	Recommendations
<p>Board Meetings</p>	<ul style="list-style-type: none"> • One week before each Board meeting, there is a pre-Board meeting where the Board package is prepared and reviewed with management input. • Package is provided to the Board chair for review. • Goal is to provide the full package to members the Friday prior to the Thursday meeting. • Meeting attendance has been at or near 100% attendance either virtually or in-person. • Board members feel the topics shared have been meaningful and the agendas have been appropriate for them to fulfill their duties and make decisions. • The Board is meets monthly with quarterly Audit Committee meetings and as needed Human Resources Committee meetings. • Agendas typically include: <ul style="list-style-type: none"> • Approval of prior Board meeting Minutes • Director's report • Agency Activity Report (Prospective activity) • Financial, HR and Legal Report by Service personnel • Audit Committee and or HR Committee report in after each recent meeting • Group updates by various Managing Directors • Procurement items 	<ul style="list-style-type: none"> • No recommendations at this time.

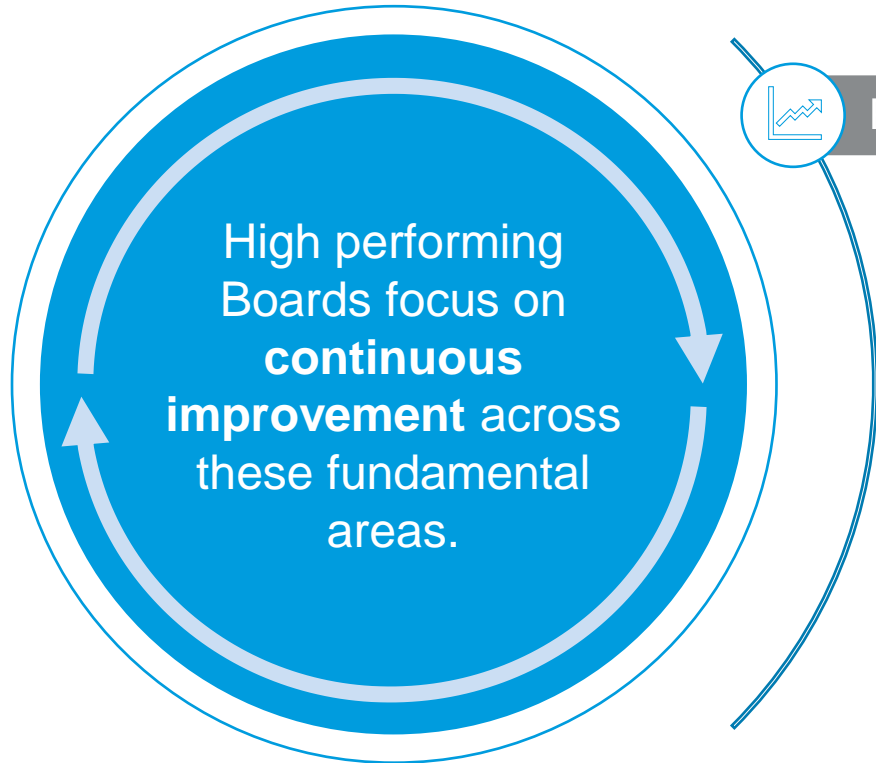
Policies, Procedures and Communication

Framework Area 5

Alignment Focus	Observations	Recommendations
<p>Meeting facilitation</p>	<ul style="list-style-type: none"> • Current meetings are run in a hybrid fashion through Zoom and in-person attendance. • Meetings are recorded and broadcasted live on YouTube, showing evidence of continued transparency. • Agendas are well suited for the Board and keep conversation flowing. • Meeting Minutes appear to be thorough and consistent with leading practices. 	<ul style="list-style-type: none"> • No recommendations at this time.
<p>Policy review</p>	<ul style="list-style-type: none"> • Policy review and updating is a current leading practice. • The Reform Act has induced this action. 	<ul style="list-style-type: none"> • No recommendations at this time.
<p>Bylaws/Charter</p>	<ul style="list-style-type: none"> • Chartering of the Board and committees is outlined in statute only and is vague in nature. • No formalized charter or set of bylaws are in place for either the Board or the committees. 	<ul style="list-style-type: none"> • Formally develop a charter and bylaws for the Board and all committees. Leverage the most recently developed policies, providing ability to measure relative compliance and/or performance accordingly.
<p>Board member terms</p>	<ul style="list-style-type: none"> • The term of a member, who is not an officer of the service and other than the State Treasurer is 4 years. • Terms of members, who are not an officer of the service and other than the State Treasurer, are staggered as required for those members of the Board. 	<ul style="list-style-type: none"> • No recommendation at this time.

Performance Monitoring

Framework Area 6 – Leading Practices



Performance Monitoring

- Continual appraisal of Board members and their relative performance is considered to be a leading practice for ensuring that engagement and contributions are sufficient.
- Allow time for the Board to evaluate its own performance; consider opportunities or possible pitfalls, and address or plan accordingly.
- Strategic initiatives and progress are monitored by the Board using a balanced set of metrics and key performance indicators (KPIs) and thoughtfully created methods of collection.

Performance Monitoring

Framework Area 6

Alignment Focus	Observations	Recommendations
<p>Board self evaluation</p>	<ul style="list-style-type: none"> The current Board members are generally new and therefore the Board has yet to assess its own performance. That said, this assessment represents the first such undertaking to evaluate Board performance. 	<ul style="list-style-type: none"> At least annually, the Board should “take a step back” and self evaluate its own performance. This should include incorporating internal and external perspectives and utilize both open conversation as well as anonymous surveys.
<p>Monitoring the organizations performance</p>	<ul style="list-style-type: none"> MES appears to be on pace to complete the Reform Act actions within the time allotted. Employees are recognized for their outstanding service. Current Board understanding of performance focuses on near-term financial risk and procurement as well as human resource matters. 	<ul style="list-style-type: none"> As conversations shift towards medium and long-range strategy, key performance metrics should be defined and aligned with the agency’s mission and values. Example areas to be measured include: <ul style="list-style-type: none"> Critical project tracking across portfolio Safety concerns and loss time incidents Human resource management and labor relations Sales pipeline Support function operations Executive Director performance



APPENDIX A

Comparison Agencies

Comparison Agencies

Comparisons to other agencies are always difficult. RSM selected three other regional semi-autonomous state appointed agencies. All four agencies also possess public and private attributes/structures/Board members.

Evaluation Criteria	Maryland Environmental Service	Virginia Port Authority	DC Water	DC Metro
Relative Size (Revenue (\$), Employees)	<ul style="list-style-type: none"> FY2020 \$178.7M ~800 employees 	<ul style="list-style-type: none"> FY2021 \$638.6M (# of Employees not found) 	<ul style="list-style-type: none"> FY 2020 \$768.4M ~1,100 employees 	<ul style="list-style-type: none"> FY2021 \$1.9B ~12,675 employees
Board of Directors Size	<ul style="list-style-type: none"> 8 members 	<ul style="list-style-type: none"> 13 members 	<ul style="list-style-type: none"> 11 principal members 11 alternate members 	<ul style="list-style-type: none"> 8 voting directors 5 alternates
Committees	<ul style="list-style-type: none"> Audit Committee Human Resources Committee 	<ul style="list-style-type: none"> Executive Committee Finance and Audit Committee Growth and Operations Committee Executive Committee Investment Committee 	<ul style="list-style-type: none"> Human Resources/Labor Relations Committee Governance Committee Audit Committee Finance & Budget Committee DC Retail Water and Sewer Rates Committee Environmental Quality & Operations Committee 	<ul style="list-style-type: none"> Executive Committee Finance and Capital Committee Safety and Operations Committee
Method of Appointment	<ul style="list-style-type: none"> Appointed by governor 	<ul style="list-style-type: none"> Appointed by governor 	<ul style="list-style-type: none"> Appointed by Mayor of the District of Columbia, DC council confirms 	<ul style="list-style-type: none"> Maryland District of Columbia Virginia Federal Gov.

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