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HOUSE JOINT RESOLUTION NO. 134

Offered January 11, 2006

Prefiled January 11, 2006

Requesting the Department of Conservation and Recreation to study the development and implementation of perennial flow determination required by the Chesapeake Bay Preservation Act regulations. Report.

Patron—Shannon

Referred to Committee on Rules

WHEREAS, the Chesapeake Bay Preservation Act was adopted by the General Assembly in 1988 for the purpose of protecting the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the effects of land use and development upon these waters; and

WHEREAS, the original Chesapeake Bay Preservation Area Designation and Management Regulations contained a provision requiring the placement of 100-foot buffers adjacent to sensitive environmental lands such as tidal wetlands and tributary streams; and

WHEREAS, the Chesapeake Bay Preservation Area Designation and Management Regulations were amended in 2002, replacing the term "tributary stream" with the term "water body with perennial flow" as one of the sensitive lands requiring the 100-foot buffer; and

WHEREAS, the 2002 regulations further required that a reliable, site specific, scientifically valid evaluation be conducted to identify water bodies with perennial flow; and

WHEREAS, an ad hoc committee, comprised of representatives from development and conservation organizations and local government staff, was appointed by the Secretary of Natural Resources in 2003 to identify scientifically valid protocols for determining perennial flow and to develop a definition of perennial flow; and

WHEREAS, that ad hoc committee studied and discussed a variety of methods for conducting perennial flow evaluations and came to consensus on a guidance document containing a suite of five protocols they determined to be scientifically valid for the purpose of determining stream perennial flow in the field; and

WHEREAS, the Chesapeake Bay Local Assistance Department published a guidance document based on the recommendations of the ad hoc committee that was approved by the Chesapeake Bay Local Assistance Board in September of 2003 ; and

WHEREAS, since the enactment of these provisions, citizens' groups have raised concerns as to the consistency of the application of the protocols by localities that are required to comply with the Chesapeake Bay Preservation Act regulations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Conservation and Recreation be requested to study the development and implementation of perennial flow determination required by the Chesapeake Bay Preservation Act regulations.

In conducting its study the Department of Conservation and Recreation shall provide information on the consistency of application of the five protocols between localities, obtain information as to the process used by localities to conduct or confirm perennial flow determinations, and provide recommendations, if necessary, relating to refinements in the process for conducting these determinations to ensure a greater level of consistency. The report shall also identify any training needed to implement the perennial flow provisions of the regulations. The Department of Conservation and Recreation shall seek comments and recommendations from interested parties, including but not limited to, property owners, industry groups, conservation organizations, and local governments under the jurisdiction of the Chesapeake Bay Preservation Act.

All agencies of the Commonwealth shall provide assistance to the Department of Conservation and Recreation for this study, upon request.

The Department of Conservation and Recreation shall complete its meetings by November 30, 2006, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2007 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

INTRODUCED

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