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SENATE BILL NO. 386

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact §§ 10.1-603.3 and 10.1-2101 of the Code of Virginia, relating to jurisdiction of the Chesapeake Bay Preservation Act.*

Patron—Martin

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.3 and 10.1-2101 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.3. Establishment of stormwater management programs by localities.

A. Any locality located within Tidewater Virginia as defined by the Chesapeake Bay Preservation Act (~~§ 10.1-2100 et seq.~~), or any locality that is partially or wholly designated as an MS4 under the provisions of the federal Clean Water Act, shall be required to adopt a local stormwater management program for land disturbing activities consistent with the provisions of this article according to a schedule set by the Board but no sooner than 12 months and not more than 18 months following the effective date of the regulation that establishes local program criteria and delegation procedures.

For the purposes of this section "Tidewater Virginia" means the following jurisdictions: the Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg.

B. Any locality not specified in subsection A may elect to adopt and administer a local stormwater management program for land disturbing activities pursuant to this article. Such localities shall inform the Board and the Department of their initial intention to seek delegation for the stormwater management program for land disturbing permits within six months following the effective date of the regulation that establishes local program criteria and delegation procedures. Thereafter, the Department shall provide an annual schedule by which localities can submit applications for delegation.

C. In the absence of the delegation of a stormwater management program to a locality, the Department will administer the responsibilities of this article within the given jurisdiction.

D. The Department shall develop a model ordinance for establishing a local stormwater management program consistent with this article.

E. Each locality that is required to or that elects to adopt and administer an approved local stormwater management program shall, by ordinance, establish a local stormwater management program that may be administered in conjunction with a local MS4 program and a local erosion and sediment control program, which shall include, but is not limited to, the following:

1. Consistency with regulations adopted in accordance with provisions of this article;

2. Provisions for long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and

3. Provisions for the integration of locally adopted stormwater management programs with local erosion and sediment control, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing construction in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

F. The Board shall delegate a local stormwater management program to a locality when it deems a program consistent with this article.

G. Delegated localities may enter into agreements with soil and water conservation districts, adjacent localities, or other entities to carry out the responsibilities of this article.

H. Localities that adopt a local stormwater management program shall have the authority to issue a consolidated stormwater management and erosion and sediment control permit that is consistent with the provisions of the Erosion and Sediment Control Law (§ 10.1-560 et seq.).

I. Any local stormwater management program adopted pursuant to and consistent with this article shall be considered to meet the stormwater management requirements under the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) and attendant regulations.

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59 § 10.1-2101. Definitions.

60 For the purposes of this chapter, the following words shall have the meanings respectively ascribed
61 to them:

62 "Board" means Chesapeake Bay Local Assistance Board.

63 "Chesapeake Bay Preservation Area" means an area delineated by a local government in accordance
64 with criteria established pursuant to § 10.1-2107.

65 "Criteria" means criteria developed by the Board pursuant to § 10.1-2107 of this chapter for the
66 purpose of determining the ecological and geographic extent of Chesapeake Bay Preservation Areas and
67 for use by local governments in permitting, denying, or modifying requests to rezone, subdivide, or to
68 use and develop land in Chesapeake Bay Preservation Areas.

69 "Department" means the Department of Conservation and Recreation.

70 "Director" means the Director of the Department of Conservation and Recreation.

71 "Person" means any corporation, association, or partnership, one or more individuals, or any unit of
72 government or agency thereof.

73 "Secretary" means the Secretary of Natural Resources.

74 "State waters" means all waters, on the surface or under the ground, wholly or partially within or
75 bordering the Commonwealth or within its jurisdiction.

76 "Tidewater Virginia" means the following jurisdictions:

77 The Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax,
78 Gloucester, Hanover, Henrico, Isle of Wight, James City, King George, King and Queen, King William,
79 Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince
80 William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of
81 Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell,
82 Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and
83 Williamsburg any county or city wholly located east of Interstate 95.