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**HOUSE BILL NO. 2067**

Offered January 14, 2015

Prefiled January 14, 2015

*A BILL to amend and reenact §§ 62.1-44.15:68 and 62.1-44.15:72 of the Code of Virginia, relating to daylighting of streams.*

Patrons—Watts and Bulova

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 62.1-44.15:68 and 62.1-44.15:72 of the Code of Virginia are amended and reenacted as follows:**

**§ 62.1-44.15:68. Definitions.**

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

"Chesapeake Bay Preservation Area" means an area delineated by a local government in accordance with criteria established pursuant to § 62.1-44.15:72.

"Criteria" means criteria developed by the Board pursuant to § 62.1-44.15:72 for the purpose of determining the ecological and geographic extent of Chesapeake Bay Preservation Areas and for use by local governments in permitting, denying, or modifying requests to rezone, subdivide, or use and develop land in Chesapeake Bay Preservation Areas.

"Daylighted stream" means a stream that had been previously diverted into a culvert, pipe, or other underground drainage system and has been redirected into an aboveground channel using natural channel design concepts as defined in § 62.1-44.15:51.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Secretary" means the Secretary of Natural Resources.

"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 and Queen, King George, 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.

**§ 62.1-44.15:72. Board to develop criteria.**

A. In order to implement the provisions of this article and to assist counties, cities, and towns in regulating the use and development of land and in protecting the quality of state waters, the Board shall promulgate regulations that establish criteria for use by local governments to determine the ecological and geographic extent of Chesapeake Bay Preservation Areas. The Board shall also promulgate regulations that establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or use and develop land in these areas.

B. In developing and amending the criteria, the Board shall consider all factors relevant to the protection of water quality from significant degradation as a result of the use and development of land. The criteria shall incorporate measures such as performance standards, best management practices, and various planning and zoning concepts to protect the quality of state waters while allowing use and development of land consistent with the provisions of this chapter. The criteria adopted by the Board, operating in conjunction with other state water quality programs, shall encourage and promote (i) protection of existing high quality state waters and restoration of all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (ii) safeguarding the clean waters of the Commonwealth from pollution; (iii) prevention of any increase in pollution; (iv) reduction of existing pollution; and (v) promotion of water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Commonwealth.

C. Prior to the development or amendment of criteria, the Board shall give due consideration to, among other things, the economic and social costs and benefits which can reasonably be expected to obtain as a result of the adoption or amendment of the criteria.

D. In developing such criteria the Board may consult with and obtain the comments of any federal,

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59 state, regional, or local agency that has jurisdiction by law or special expertise with respect to the use  
60 and development of land or the protection of water. The Board shall give due consideration to the  
61 comments submitted by such federal, state, regional, or local agencies.

62 E. In developing such criteria, the Board shall provide that any locality in a Chesapeake Bay  
63 Preservation Area that allows the owner of an on-site sewage treatment system not requiring a Virginia  
64 Pollutant Discharge Elimination System permit to submit documentation in lieu of proof of septic tank  
65 pump-out shall require such owner to have such documentation certified by an operator or on-site soil  
66 evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to  
67 operate, maintain, or design on-site sewage systems.

68 F. *In developing such criteria, the Board shall not require that a daylighted stream will result in a*  
69 *Resource Protection Area as defined according to the criteria developed by the Board. However, the*  
70 *Board shall adopt minimum criteria that shall be included in an agreement between a locality and the*  
71 *property owners adjacent to the daylighted stream to ensure that the daylighted stream continues to*  
72 *provide a water quality benefit. Nothing in this subsection shall limit a locality's authority to include a*  
73 *daylighted stream within the extent of its Resource Protection Area.*

74 G. Effective July 1, 2014, requirements promulgated under this article directly related to compliance  
75 with the erosion and sediment control and stormwater management provisions of this chapter and  
76 regulated under the authority of those provisions shall cease to have effect.