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HOUSE BILL NO. 1329

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact § 62.1-44.15:72 of the Code of Virginia, relating to Chesapeake Bay; Resource Protection Areas; tree removal.

Patron—Kory

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

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

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

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

F. In developing such criteria, the Board shall not require the designation of a Resource Protection Area (RPA) as defined according to the criteria developed by the Board, adjacent to a daylighted stream. However, a locality that elects not to designate an RPA adjacent to a daylighted stream shall use a water quality impact assessment to ensure that proposed development on properties adjacent to the daylighted stream does not result in the degradation of the stream. The water quality impact assessment shall (i) be consistent with the Board's criteria for water quality assessments in RPAs, (ii) identify the impacts of the proposed development on water quality, and (iii) determine specific measures for the mitigation of those impacts. The objective of this assessment is to ensure that practices on properties adjacent to daylighted streams are effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution. The specific content for the water quality impact assessment shall be established and implemented by any locality that chooses not to designate an RPA adjacent to a daylighted stream. Nothing in this subsection shall limit a locality's authority to include a daylighted stream within the extent of an RPA.

G. In developing such criteria, the Board shall require that any local ordinance addressing permitted modifications of the buffer area include specific penalties for the removal of trees from an RPA without the prior approval of such locality.

INTRODUCED

HB1329

59 *H.* Effective July 1, 2014, requirements promulgated under this article directly related to compliance
60 with the erosion and sediment control and stormwater management provisions of this chapter and
61 regulated under the authority of those provisions shall cease to have effect.