

LD8625605

HOUSE BILL NO. 2559

Offered January 23, 1995

A *BILL to amend and reenact § 28.2-1205 of the Code of Virginia, relating to applications for use of state-owned bottomlands.*

Patrons—Behm, Bloxom, Cooper, Crittenden, Grayson, Morgan and Spruill; Senators: Andrews and Maxwell

Referred to Committee on Chesapeake and Its Tributaries

Be it enacted by the General Assembly of Virginia:**1. That § 28.2-1205 of the Code of Virginia is amended and reenacted as follows:**

§ 28.2-1205. Permits for the use of state-owned bottomlands.

A. When determining whether to grant or deny any permit for the use of state-owned bottomlands, the Commission shall be guided in its deliberations by the provisions of Article XI, Section I of the Constitution of Virginia. In addition to other factors, the Commission shall also consider the public and private benefits of the proposed project and its effect on the following:

1. Other reasonable and permissible uses of state waters and state-owned bottomlands;

2. Marine and fisheries resources of the Commonwealth;

3. Tidal wetlands, except when this has or will be determined under the provisions of Chapter 13 of this title;

4. Adjacent or nearby properties; and

5. Water quality.

B. The Commission shall consult with other state agencies, including the Virginia Institute of Marine Science, the State Water Control Board, the Virginia Department of Transportation, and the State Corporation Commission, whenever the Commission's decision on a permit application relates to or affects the particular concerns or activities of those agencies.

C. No permit for a marina or boatyard for commercial use shall be granted until the owner or other applicant presents to the Commission a plan for sewage treatment or disposal facilities which has been approved by the State Department of Health.

D. No application for a permit under this section shall be considered complete unless accompanied by a certification from the local governing body of the jurisdiction where the project is to be located that the project complies with all applicable ordinances adopted by the locality in accordance with Chapter 11 (§ 15.1-427 et seq.) of Title 15.1. The Commission may exempt from this requirement categories of projects for which it deems certification unnecessary. An application shall not be deemed incomplete pursuant to this subsection if a local governing body fails to respond within forty-five days following receipt, by certified mail, return receipt requested, of a written request for certification from the applicant identifying the character and location of the project.

~~E.~~ All permits issued by the Commission for the use of state-owned bottomlands or to recover underwater historic property shall be in writing and specify the conditions, terms and royalties which the Commission determines are appropriate.

~~F.~~ Any person aggrieved by a decision of the Commission under this section is entitled to judicial review in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

INTRODUCED

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