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HOUSE BILL NO. 2758

Offered January 20, 1997

A BILL to amend and reenact §§ 10.1-2103, 10.1-2104 and 10.1-2106 of the Code of Virginia, relating to Chesapeake Bay Preservation Act compliance.

Patrons—Dillard and Murphy

Referred to Committee on Chesapeake and Its Tributaries

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2103, 10.1-2104 and 10.1-2106 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2103. Powers and duties of the Board.

The Board is responsible for carrying out the purposes and provisions of this chapter and is authorized to:

1. Provide land use and development and water quality protection information and assistance to the various levels of local, regional and state government within the Commonwealth.

2. Consult, advise, and coordinate with the Governor, the Secretary, the General Assembly, other state agencies, regional agencies, local governments and federal agencies for the purpose of implementing this chapter.

3. Provide financial and technical assistance and advice to local governments and to regional and state agencies concerning aspects of land use and development and water quality protection pursuant to this chapter.

4. Promulgate regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.).

5. Develop, promulgate and keep current the criteria required by § 10.1-2107.

6. Provide technical assistance and advice or other aid for the development, adoption and implementation of local comprehensive plans, zoning ordinances, subdivision ordinances, and other land use and development and water quality protection measures utilizing criteria established by the Board to carry out the provisions of this chapter.

7. Develop procedures for use by local governments to designate Chesapeake Bay Preservation Areas in accordance with the criteria developed pursuant to § 10.1-2107.

8. Ensure that local government comprehensive plans, zoning ordinances and subdivision ordinances are in accordance with the provisions of this chapter. Determination of compliance shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

9. Make application for federal funds that may become available under federal acts and to transmit such funds when applicable to any appropriate person.

10. Take administrative and legal actions to ensure compliance by counties, cities and towns with the provisions of this chapter *including the proper enforcement and implementation of this chapter and criteria and regulations adopted hereunder by local governments in specific comprehensive plan, zoning and subdivision or other land use decisions and disputes involving Chesapeake Bay Preservation Areas.*

11. Perform such other duties and responsibilities related to the use and development of land and the protection of water quality as the Secretary may assign.

12. Enter into contracts necessary and convenient to carry out the provisions of this chapter.

§ 10.1-2104. Exclusive authority of Board to institute legal actions.

A. The Board shall have the exclusive authority to institute *or intervene in legal and administrative actions* to ensure compliance by local governing bodies with this chapter and with any criteria or regulations adopted hereunder.

B. *Notwithstanding the provisions of subsection A, a citizen who is a resident of the locality where a local governing body has allegedly not complied with this chapter or any criteria or regulations adopted thereunder may institute or intervene in administrative and legal actions against the locality to compel compliance. In order for a citizen to file such an action: (i) he must provide at least fifteen days written notice to the Board of his intent to bring the action and the basis for the action; and (ii) the Board must not have brought its own action prior to the institution of an action by the citizen.*

§ 10.1-2106. Powers and duties of Director.

A. The Director, under the direction and control of the Secretary, shall exercise such powers and perform such duties as are conferred or imposed upon him by law and shall perform any other duties required of him by the Governor or the Board.

B. In addition to the other responsibilities set forth herein, the Director shall carry out management and supervisory responsibilities in accordance with the regulations and policies of the Board. In no event

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60 shall the Director have the authority to promulgate any final regulations.

61 C. The Director shall be vested with all the authority of the Board, *including the authority granted*

62 *by § 10.1-2104*, when it is not in session, subject to such regulations as may be prescribed by the Board.