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SENATE BILL NO. 550

Offered January 16, 2012

A *BILL to amend the Code of Virginia by adding a section numbered 28.2-553.1, relating to the adjustment of the boundaries of the public oyster beds on the seaside of the Eastern Shore.*

Patron—Northam

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 28.2-553.1 as follows:**

§ 28.2-553.1. *Adjusting boundaries of the public oyster beds on the seaside of the Eastern Shore; procedure.*

A. *The Commission shall adjust the boundaries of the public oyster beds on the seaside of the Eastern Shore on an as-needed basis over time as resources allow. The Commission shall make its adjustment procedure public consistent with the procedures for establishing fishery management standards set out in § 28.2-203 and shall make publicly available the information upon which it bases any proposed boundary adjustment. This section applies only to the state-owned bottomlands on the seaside of the Eastern Shore.*

B. *The Commission shall use the best information available regarding the location and extent of natural shellfish beds and potential oyster habitats on the seaside. The Baylor survey shall form the basis of the Commission's adjustment process, and the Baylor survey boundary shall remain the default boundary until adjusted by the Commission on an interim or final basis.*

C. *The Commission shall, when considering any adjustment to the boundaries of the state-owned subaqueous bottomlands of the public shellfish beds on the seaside of the Eastern Shore, including the removal of any portion of the Baylor survey:*

1. *Consider Article XI, Section 3 of the Constitution of Virginia and the public and private benefits of modification;*

2. *Exercise its authority consistent with the common law public trust doctrine; and*

3. *State the effect of the proposed removal on:*

a. *Marine and fishery resources, including the abundance of commercially important shellfish;*

b. *The potential for restoring wild oysters to the area;*

c. *Submerged aquatic vegetation and the potential of the area to support submerged aquatic vegetation;*

d. *Other natural resource values;*

e. *The area's potential for shellfish aquaculture;*

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

g. *Adjacent and nearby properties; and*

h. *Water quality.*

D. *The Commission shall include within the adjusted boundaries natural oyster beds on currently unassigned state-owned bottomlands and shall exclude from the adjusted boundaries currently leased bottomlands and areas that (i) do not currently support oysters and (ii) are judged to be inappropriate for enhancing wild oyster populations.*

E. *In making a lease decision or other determinations about the use of remaining unassigned state-owned bottomlands, the Commission shall (i) recognize the lands as a public resource; (ii) identify the lands' ecological and economic values; and (iii) seek to optimize lands' ecological and economic values.*

INTRODUCED

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