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HOUSE BILL NO. 691

Offered January 22, 1998

A BILL to amend and reenact §§ 28.2-100, 28.2-102, 28.2-104, and 28.2-105 of the Code of Virginia, relating to duties of the Director of the Marine Resources Commission.

Patrons—Wardrup, Drake, Purkey and Tata; Senator: Schrock

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-100, 28.2-102, 28.2-104, and 28.2-105 of the Code of Virginia are amended and reenacted as follows:

Article 1.

Commission; ~~Commissioner~~ Director.

§ 28.2-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Commission" means the Marine Resources Commission.

~~"Commissioner" means the Commissioner of Marine Resources.~~

"Director" means the Director of the Marine Resources Commission.

"Fish" or "marine fish" means those finfish species which spend a major portion of their lives in marine or estuarine waters. Sunfish, crappies, and carp are not considered to be marine fish.

"Fishing," "fisheries" or "to fish" means all operations involved in (i) taking or catching, (ii) using, setting or operating apparatus employed in killing, taking or catching, or (iii) transporting or preparing for market marine fish, shellfish, and marine organisms.

"Habitat" means those state-owned bottomlands, tidal wetlands and coastal primary sand dunes which are subject to regulation under Subtitle III of this title.

"Marine organisms" means those species other than marine finfish or marine shellfish which inhabit marine or estuarine waters. Terrapin and marine mammals are considered to be marine organisms.

"Marine shellfish" or "shellfish" means such species of mollusca as oysters and clams, and such species of crustacea as crabs.

"Officer" means a member of the Virginia Marine Patrol.

"Territorial sea" means the waters within the belt, three nautical miles wide, that is adjacent to Virginia's coast and seaward of the mean low-water mark.

"Tidewater Virginia" means the following counties: 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.

§ 28.2-102. Commission membership; chairman; qualifications; terms; meetings.

A. The Commission shall consist of a ~~chairman and eight additional~~ *ten* members who, to the extent possible, shall be representative of all areas of interest in Virginia's marine resources, including commercial, recreational and environmental interests. At least one member shall, at the time of his appointment, have earned his livelihood for at least five years by working on Virginia waters *and at least one member shall have expertise in fisheries management and related education. The Director of the Virginia Institute of Marine Science shall serve as a nonvoting ex-officio member.* The members, ~~including the chairman,~~ shall be appointed by the Governor and shall serve at his pleasure.

B. ~~The chairman and two~~ *Three* members of the Commission *and the Director of the Virginia Institute of Marine Science* shall hold office for terms coincident with the term of the Governor making the appointments, or until their successors have been appointed and qualified. The terms of the remaining six members shall expire July 1, 1997, and these same six members shall be reappointed effective July 1, 1997, as successors. Their terms shall be as follows: two members shall be appointed for two-year terms, two members shall be appointed for three-year terms, and two members shall be appointed for four-year terms or until their successors are appointed and qualified. Thereafter, all appointments shall be for terms of ~~four~~ *four* years or until their successors are appointed and qualified. No person, ~~except the chairman,~~ shall serve more than two consecutive four-year terms. Any vacancy shall be filled by the Governor for the unexpired term.

C. ~~The chairman shall be an experienced administrator with knowledge of seafood and marine affairs.~~

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60 He shall serve as Commissioner of Marine Resources. The members of the Commission shall elect a
61 chairman.

62 D. Five members shall constitute a quorum of the Commission.

63 E. The Commission shall meet on the call of the chairman or three members at such times as he or
64 they may deem necessary, and at such places as he or they may designate.

65 § 28.2-104. Director; general powers and duties.

66 A. The Director, under the direction and control of the Governor, shall exercise the powers and
67 perform the duties that are conferred upon him by law, and he shall perform such other duties as may
68 be required of him by the Governor or the appropriate citizen boards.

69 B. The ~~Commissioner~~Director shall:

70 1. Enforce the marine fishery and habitat laws and regulations;

71 2. Serve as chief executive officer of the Commission and ~~devote full time to the duties of the~~
72 ~~office~~exercise such administrative powers and duties as are conferred upon him by the Commission; and
73 further, the Commission may delegate to him any of the powers and duties invested in it by this title
74 except the adoption and promulgation of standards, rules and regulations;

75 3. Appoint all personnel; and

76 4. Establish and equip a permanent office in the City of Newport News.

77 § 28.2-105. Legal representation for employees in criminal prosecution; compensation.

78 If any Commission employee is prosecuted on any criminal charge arising out of any act committed
79 in the discharge of his official duties, the ~~Commissioner~~Director may employ special counsel approved
80 by the Attorney General to defend the employee. The compensation for special counsel shall, subject to
81 the approval of the Attorney General, be paid out of the funds appropriated for the administration of the
82 Commission.

83 2. That whenever the terms "Commissioner" (of VMRC), "Commissioner of Marine Resources,"
84 or "Commissioner of the Marine Resources Commission" are referred to in this Code they shall
85 mean the "Director of the Marine Resources Commission."