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HOUSE BILL NO. 390
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 24, 2026)
(Patron Prior to Substitute—Delegate Askew)

A BILL to amend the Code of Virginia by adding a section numbered 28.2-104.2, relating to Marine Resources Commission; Habitat Policy Oversight Committee established; powers and duties; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 28.2-104.2 as follows:

§ 28.2-104.2. Habitat Policy Oversight Committee; powers and duties; report.

A. For the purposes of this section:

"Committee" means the Habitat Policy Oversight Committee established in subsection B.

"Division" means the Habitat Management Division of the Commission.

B. There is hereby established within the Commission the Habitat Policy Oversight Committee, which shall advise the Commission and the Division on policies within their jurisdiction and support the Commission's coastal resilience efforts. The Commission shall retain ultimate regulatory authority, but the Division and the Commission shall consider and give due weight to the Committee's recommendations in decision-making processes. The Division shall report to the Commission on Committee activities and how the Committee's recommendations have informed policy and program development, and the Division shall consult with the Committee on all updates or revisions to policy matters not requiring formal Commission approval.

C. The Committee shall have 11 voting members appointed by the Secretary of Natural and Historic Resources. Vacancies shall be filled in the same manner as the original appointments and all members may be reappointed. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses. In addition to the Chief of the Division and the Deputy Commissioner of the Commission, who shall serve as nonvoting ex officio members, membership of the Committee shall be as follows:

- 1. One member who is a current Associate Commissioner of the Commission, who shall be the chair;*
- 2. One member who represents the Virginia Institute of Marine Science;*
- 3. One member who is an employee of the Institute for Coastal Adaptation and Resilience at Old Dominion University;*
- 4. One member appointed to a local wetlands board;*
- 5. One member who represents the private marine construction or consulting sector;*

- 33 *6. One member from the conservation or nonprofit environmental advocacy community;*
- 34 *7. One member from the aquaculture or commercial fisheries industry;*
- 35 *8. One member of local or regional government within the coastal areas of the Commonwealth;*
- 36 *9. One member from the Virginia Coastal Zone Management Program at the Department of*
- 37 *Environmental Quality;*
- 38 *10. One member representing the mitigation banking or environmental restoration sector; and*
- 39 *11. One member from industry subject to the Commission's authority pursuant to Chapter 12 (§ 28.2-1200*
- 40 *et seq.) or Chapter 13 (§ 28.2-1300 et seq.).*
- 41 *D. Initially, members of the Committee established in (i) subdivisions C 1 through 5 shall be appointed to*
- 42 *serve a term of two years and (ii) subdivisions C 6 through 11 shall be appointed to serve a term of four*
- 43 *years. After the initial staggering of terms, members of the Committee shall be appointed to serve for terms of*
- 44 *four years each.*
- 45 *E. The Committee shall have the following powers and duties:*
- 46 *1. Review and provide recommendations on Division policies, procedures, and priorities;*
- 47 *2. Review and make recommendations on appropriate mitigation strategies for all natural resources*
- 48 *under the purview of the Division to provide a clear, consistent, and science-based path to granting permits.*
- 49 *As part of such review, the Committee shall consider additional project benefits such as flood prevention,*
- 50 *resilience, and habitat improvements, and alternatives when mitigation banking is not feasible, consistent*
- 51 *with applicable laws and regulations;*
- 52 *3. Recommend process improvements to enhance efficiency, transparency, and scientific rigor;*
- 53 *4. Provide advisory input on major habitat-related rulemaking and regulatory amendments prior to*
- 54 *Commission consideration;*
- 55 *5. Review actions of the Division to ensure consistency with state resilience and coastal policy plans and*
- 56 *objectives;*
- 57 *6. Review and provide comment on proposed regulatory or procedural changes affecting tidal wetlands,*
- 58 *subaqueous lands, and dune and beach permitting;*
- 59 *7. Recommend opportunities for interagency collaboration, grant alignment, policy integration, and*
- 60 *permit efficiency; and*
- 61 *8. Recommend strategies and actions the Commission may pursue to contribute to and advance the goals*
- 62 *of the Chesapeake Bay Agreement.*