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SENATE BILL NO. 299

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 10.1-105, 10.1-107, and 10.1-1000 of the Code of Virginia and to repeal §§ 10.1-1001 and 10.1-1002 of the Code of Virginia, relating to Board of Conservation and Recreation; Cave Board; repeal.

Patron—French

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-105, 10.1-107, and 10.1-1000 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-105. Board of Conservation and Recreation.

The Board of Conservation and Recreation shall be reorganized and is established as a policy board in the executive branch in accordance with § 2.2-2100 and shall consist of ~~12~~ 13 members to be appointed by the Governor. The Board shall be the successor to the Board on Conservation and Development of Public Beaches and the Virginia State Parks Foundation. The members of the Board shall initially be appointed for terms of office as follows: three for a one-year term, three for a two-year term, three for a three-year term, and three for a four-year term. The Governor shall designate the term to be served by each appointee at the time of appointment. Appointments thereafter shall be made for four-year terms. No person shall serve more than two consecutive full terms. Any vacancy shall be filled by the Governor for the unexpired term. All terms shall begin July 1. Board members shall serve at the pleasure of the Governor. In making appointments, the Governor shall endeavor to select persons suitably qualified to consider and act upon the various special interests and problems related to the programs of the Department with at least one appointment based on a person's knowledge of and activity in the conservation, exploration, study, and management of caves. The Board may appoint subcommittees of not less than three to consider and deal with special interests and problems related to programs of the Department.

§ 10.1-107. General powers and duties of the Board.

A. The Board shall advise the Governor and the Director on activities of the Department. Upon the request of the Governor, or the Director, the Board shall institute investigations and make recommendations.

The Board shall formulate recommendations to the Director concerning:

1. Requests for grants or loans pertaining to outdoor recreation.
2. Designation of recreational sites eligible for recreational access road funds.
3. Designations proposed for scenic rivers, scenic highways, and Virginia byways.
4. Acquisition of real property by fee simple or other interests in property for the Department including, but not limited to, state parks, state recreational areas, state trails, greenways, natural areas and natural area preserves, and other lands of biological, environmental, historical, recreational, or scientific interest.
5. Acquisition of bequests, devises, and gifts of real and personal property, and the interest and income derived therefrom.
6. Stage one and stage two plans, master plans, and amendments to master plans as provided in § 10.1-200.1.

B. The Board shall have the authority to promulgate regulations necessary for the execution of the Public Beach Conservation and Development Act, Article 2 (§ 10.1-705 et seq.) of Chapter 7 of this title.

C. The Board shall assist the Department in the duties and responsibilities described in Subtitle I (§ 10.1-100 et seq.) of Title 10.1.

D. The Board is authorized to conduct fund-raising activities as deemed appropriate and will deposit such revenue into the State Parks Projects Fund pursuant to subsection C of § 10.1-202.

E. The Board shall advise the Governor and the Director concerning the protection or management of the Virginia Scenic Rivers System as defined in § 10.1-400. Upon the request of the Governor, or the Director, the Board shall institute investigations and make recommendations. The Board shall have general powers and duties to (i) advise the Director on the appointment of Scenic River Advisory Committees or other local or regional committees pursuant to § 10.1-401; (ii) formulate recommendations concerning designations for proposed scenic rivers or extensions of existing scenic

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59 rivers; (iii) consider and comment to the Director on any federal, state, or local governmental plans to
 60 approve, license, fund, or construct facilities that would alter any of the assets that qualified the river for
 61 scenic designation; (iv) assist the Director in reviewing and making recommendations regarding all
 62 planning for the use and development of water and related land resources including the construction of
 63 impoundments, diversions, roadways, crossings, channels, locks, canals, or other uses that change the
 64 character of a stream or waterway or destroy its scenic assets, so that full consideration and evaluation
 65 of the river as a scenic resource will be given before alternative plans for use and development are
 66 approved; (v) assist the Director in preserving and protecting the natural beauty of the scenic rivers,
 67 assuring the use and enjoyment of scenic rivers for fish and wildlife, scenic, recreational, geologic,
 68 historic, cultural, or other assets, and encouraging the continuance of existing agricultural, horticultural,
 69 forestal and open space land and water uses; (vi) advise the Director and the affected local jurisdiction
 70 on the impacts of proposed uses of each scenic river and its related land resources; and (vii) assist local
 71 governments in solving problems associated with the Virginia Scenic Rivers System, in consultation with
 72 the Director.

73 *F. The Board shall advise the Director on (i) the protection of the rare, unique, and irreplaceable*
 74 *minerals and archaeological resources found in caves, (ii) maintaining cave life, (iii) protecting ground*
 75 *water flow that naturally occurs in caves from water pollution, and (iv) how to best protect the integrity*
 76 *of caves that have unique characteristics or are exemplary natural community types. The Board shall*
 77 *make recommendations to interested state agencies concerning any proposed rule, regulation, or*
 78 *administrative policy that directly affects the use and conservation of caves in the Commonwealth, and*
 79 *study any matters of special concern relating to caves and karst.*

80 **§ 10.1-1000. Definitions.**

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

82 "~~Board~~" means the ~~Cave Board~~.

83 "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages
 84 beneath the surface of the earth or within a cliff or ledge including natural subsurface water and
 85 drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is
 86 large enough to permit a person to enter. The word "cave" includes or is synonymous with cavern,
 87 sinkhole, natural pit, grotto, and rock shelter.

88 "Cave life" means any rare or endangered animal or other life form which normally occurs in, uses,
 89 visits, or inhabits any cave or subterranean water system.

90 "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the
 91 general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

92 "Gate" means any structure or device located to limit or prohibit access or entry to any cave.

93 "Material" means all or any part of any archaeological, paleontological, biological, or historical item
 94 including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery,
 95 projectile point, remains of historical mining activity or any other occupation found in any cave.

96 "Owner" means a person who owns title to land where a cave is located, including a person who
 97 owns title to a leasehold estate in such land, and including the Commonwealth and any of its agencies,
 98 departments, boards, bureaus, commissions, or authorities, as well as counties, municipalities, and other
 99 political subdivisions of the Commonwealth.

100 "Person" means any individual, partnership, firm, association, trust, or corporation or other legal
 101 entity.

102 "Sinkhole" means a closed topographic depression or basin, generally draining underground,
 103 including, but not restricted to, a doline, uvala, blind valley, or sink.

104 "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with
 105 anastomoses, scallops, rills, flutes, spongework, and pendants.

106 "Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is
 107 synonymous with stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's
 108 hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone,
 109 et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and
 110 other similar minerals.

111 **2. That §§ 10.1-1001 and 10.1-1002 of the Code of Virginia are repealed.**

112 **3. That the terms of persons serving as members of the Cave Board within the Department of**
 113 **Conservation and Recreation pursuant to § 10.1-1001 of the Code of Virginia as it was in effect**
 114 **prior to the effective date of this act shall expire on the effective date of this act.**

115 **4. That this act shall not be construed to affect existing appointments to the Board of**
 116 **Conservation and Recreation for the terms that have not expired. However, any new appointments**
 117 **shall be made in accordance with this act.**