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By: **Delegates Morhaim and Weir**

Introduced and read first time: January 12, 2001

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay Critical Area - Addition of Coastal Bays**

3 FOR the purpose of adding the coastal bays of the State to the areas designated as

4 being within the Chesapeake Bay Critical Area.

5 BY repealing and reenacting, with amendments,

6 Article - Natural Resources

7 Section 8-1807

8 Annotated Code of Maryland

9 (1990 Replacement Volume and 2000 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Natural Resources**

13 8-1807.

14 (a) The initial planning area for determination of the Chesapeake Bay Critical  
15 Area consists of:

16 (1) All waters of and lands under the Chesapeake Bay and its tributaries  
17 to the head of tide as indicated on the State wetlands maps, and all State and private  
18 wetlands designated under Title 9 of this article; [and]

19 (2) All land and water areas within 1,000 feet beyond the landward  
20 boundaries of State or private wetlands and the heads of tides designated under Title  
21 9 of this article; AND

22 (3) ALL COASTAL BAYS OF THE STATE.

23 (b) (1) (i) In determining the Chesapeake Bay Critical Area within its  
24 boundaries, a local jurisdiction may exclude those portions of the planning area  
25 designated in subsection (a) of this section which the local jurisdiction finds to be:

1                                   1.       Part of a developed, urban area in which, in view of  
2 available public facilities and applicable laws and restrictions, the imposition of a  
3 program would not substantially improve protection of tidal water quality or  
4 conservation of fish, wildlife, or plant habitats; or

5                                   2.       Located at least 1,000 feet from open water and separated  
6 from open water by an area of wetlands which it is found will serve to protect tidal  
7 water quality and fish, wildlife, or plant habitats from adverse impacts of  
8 development in the excluded area.

9                                   (ii)     A portion of urban area to be excluded shall be at least 50%  
10 developed and may not be less than 2,640,000 square feet in contiguous area or the  
11 entire initial planning area located within the boundaries of a municipality,  
12 whichever is less.

13                               (2)     A local jurisdiction shall include in any program submitted to the  
14 Commission under § 8-1809 of this subtitle a designation of those portions of the  
15 Chesapeake Bay Critical Area proposed for exclusion under paragraph (1) of this  
16 subsection, together with all factual information and expert opinion supporting its  
17 findings under this subsection.

18                               (3)     The Commission shall approve a local jurisdiction's designation of  
19 portions to be excluded unless the Commission finds, based on stated reasons, that  
20 the decision of the local jurisdiction was:

21                               (i)     Not supported by competent and material evidence; or

22                               (ii)    Arbitrary or capricious.

23                               (4)     If the Commission develops the program to be applied in a local  
24 jurisdiction, the Commission shall exclude areas as appropriate to meet the intent of  
25 paragraph (1) of this subsection.

26       (c)     The Chesapeake Bay Critical Area shall consist of:

27                               (1)     Those areas designated in subsection (a) of this section, except any  
28 areas excluded in accordance with subsection (b) of this section; and

29                               (2)     Additional areas proposed for inclusion by local jurisdictions and  
30 approved by the Commission.

31       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2001.