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Miro, Lavelle, Gilligan, Ewing, Roy, Caulk

DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 329

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO STEWARDSHIP OF COASTAL AND OCEAN RESOURCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 WHEREAS, Delaware is a coastal state, and coastal and ocean resources are critical to our economic security and
2 quality of life; and

3 WHEREAS, coastal and ocean benefits to Delaware include recreational and commercial fishing, wildlife watching,
4 biodiversity, swimming, boating, surfing, and other aesthetic, environmental, and economic values; and

5 WHEREAS, population growth both in Delaware and globally is causing increasing stresses on coastal and ocean
6 resources; and

7 WHEREAS, the U.S. Commission on Ocean Policy (April, 2004) has concluded that "...major changes are urgently
8 needed. Ocean management responsibilities are dispersed among a confusing array of agencies at the federal, state, and local
9 levels. While new scientific understanding has taught us that natural systems are complex and interconnected, our decision-
10 making and management systems have not been updated...."

11 WHEREAS, Delaware has long sought to protect coastal and ocean resources through fisheries management,
12 pollution control, coastal zone land use management, and other programs, and

13 WHEREAS, Delaware would benefit if such efforts were better coordinated.

14 NOW, THEREFORE, THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE HEREBY FINDS, AND
15 ESTABLISHES AS FUNDAMENTAL STATE POLICY, THAT:

16 (1) The coastal and ocean waters under the jurisdiction of the State of Delaware shall be managed primarily to protect

17 water quality and the health and diversity of aquatic life.

18 (2) All public agencies shall allow and encourage only those coastal and ocean water related activities and uses that
19 are sustainable over the long term, given the expectation of continuing population growth.

20 (3) All public agencies shall recognize the importance of non-consumptive, aesthetic, educational, scientific, and
21 recreational uses of coastal and ocean resources.

22 (4) Coastal and ocean ecosystems are inextricably linked to activities on land, and all public agencies shall consider
23 the impact of activities on land that may adversely affect the health of the coastal and ocean environment, and shall
24 take the necessary steps to avoid and/or minimize such impacts.

25 (5) It shall be Delaware's policy to incorporate ecosystem perspectives into the management of coastal and ocean
26 resources, using sound science, with a priority of protecting and restoring coastal and ocean ecosystems.

27 (6) A goal of all applicable state actions shall be to improve monitoring and data gathering, and to advance scientific
28 understanding, to continually improve efforts to protect, restore, and manage coastal waters and ocean ecosystems.

29 (7) State and local actions that affect ocean waters or coastal or ocean resources shall be conducted in a manner
30 consistent with protection and maintenance of healthy coastal and ocean ecosystems and restoration of degraded
31 ecosystems. State and local agencies shall avoid and/or minimize actions that would cause harm to ocean and coastal
32 ecosystems or impair the restoration of coastal and ocean ecosystems.

33 (8) The state shall, as necessary, deploy the full range of conservation measures, including but not limited to
34 restrictions on the removal of living and nonliving resources, the discharge of various substances into waters, and the
35 placement of permanent or temporary structures in marine waters, as well as the creation of different kinds of marine
36 management areas, including fully protected marine areas, in furthering the goal of healthy ecosystems.

37 (9) Whenever appropriate, state policies shall be more protective than required by the Federal Government or
38 regional bodies.

39 THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

40 Section 1. Amend Title 7 of the Delaware Code by adding a new §7901A, as follows:

41 “§7901A. Stewardship of coastal and ocean resources.

42 (a) The Secretary of Natural Resources and Environmental Control shall convene a Coastal/Ocean Task Force
43 consisting of (1) a representative of Delaware’s coastal program; (2) a scientist representing Delaware’s biodiversity program;
44 (3) a biologist representing the Delaware Division of Fish and Wildlife;(4) a representative of the Watershed Assessment
45 section of the Division of Water Resources; (5) a representative of commercial fishing interests; (6) a representative of the

46 Coastal Conservation Association to represent recreational fishing interests; (7) two members of the House of Representatives,
47 one from each caucus, to be selected by the Speaker; (8) two members of the Delaware Senate, one from each caucus, to be
48 selected by the President Pro-Tem; (9) a representative of Green Delaware, (10) a representative of the Sierra Club; (11) a
49 representative of the Coastal Ocean Coalition, (12) a representative of the Delaware Mobile Surf-Fishermen, and (13) the
50 Secretary of Natural Resources and Environmental Control as an ex-officio and non-voting member.

51 a. The members of the Task Force, unless otherwise specified, shall be selected by their respective organizations or, if
52 not so selected by the same within sixty days of passage of this Act after repeated requests, by the Secretary of the Department
53 of Natural Resources and Environmental Control;

54 b. the Task Force shall select a Chair and Vice-Chair from among its members. Neither shall be full-time state
55 employees;

56 c. The Task Force shall receive all necessary staff support from the Department of Natural Resources and
57 Environmental Control;

58 d. the Task Force shall (i) meet and deliberate only in public, (ii) accept public comment at all meetings, and
59 immediately before making any formal decisions, (iii) ensure that public comments are reflected in meeting minutes, (iv)
60 generally, allow member of the public to participate in discussions, (v) meet after 5 p.m. so as to be accessible to the public,
61 and (vi) hold formal public hearings at the beginning of its work and receive comment on a draft of its final report;

62 e. legislative exemptions notwithstanding, the Task Force shall comply with the Administrative Procedures Act, 29
63 Delaware Code, Chapter 101, and the Freedom of Information Act, 29 Delaware Code Chapter 100;

64 f. unless otherwise directed by the General Assembly, the Task Force shall cease to exist upon acceptance of its final
65 report.

66 g. The Task Force shall hold its first meeting within sixty days of passage of this Act.

67 (b) Within 18 months of this law's enactment, the Ocean Stewardship Task Force shall:

68 a. determine which existing federal and state laws, rules and regulations and regional or interstate compacts or
69 agreements govern the management, planning and protection of ocean ecosystems and marine life and make an assessment of
70 the scope and effectiveness of such laws, rules and regulations in achieving the above-stated Findings and Declaration of
71 Policy and of what gaps might exist;

72 b. assess (1) emerging threats and proposed uses that may affect the state's coastal and ocean waters and the marine
73 life within them and (2) status and trends in the health of marine species and habitats within state waters based on existing data
74 and information;

75 c. propose a state coastal/ocean stewardship plan (OSP), consistent with the Findings and Declaration of Policy and
76 including:
77 i. objectives for the state plan that incorporates ecosystem perspectives into the management of coastal and
78 ocean resources, using sound science, with a priority of protecting and restoring coastal and ocean ecosystems
79 ii. description of necessary conservation tools for obtaining the stated objectives, including Marine Protected
80 Areas and fully protected Marine Protected Areas;
81 iii. description of public review, enforcement measures, and monitoring and reporting requirements
82 necessary to achieve stated objectives;
83 d. In a report to the Governor and the General Assembly, propose new authorizing executive action, legislation and
84 implementing regulations necessary to implement and achieve the OSP.”
85 (c) This Act shall be known, and may be cited as, the Delaware Coastal/Ocean Stewardship Act.

SYNOPSIS

This Act establishes a Coastal/Ocean Stewardship policy and principles for the State of Delaware and establishes a Coastal/Ocean Task Force to evaluate the present situation and develop the details for implementation of the new policy.

Author: Senator McBride