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House Bill 517

Board of Public Works – State Wetlands Licenses – Best Interest of the State

House Environmental Matters Committee

February 12, 2014

House Bill 517 amends Title 16 of the Environment Article and Title 10 of the State Finance and Procurement Article to:

1. Codify that the State owns State wetlands and that the Board of Public Works (“the Board”) operates in its proprietary capacity when deciding whether to issue a State wetlands license;
2. Provide the Board with statutory authority to adopt wetlands regulations; and
3. Clarify that the Board shall take into account the varying ecological, economic, developmental, recreational, and aesthetic advantages and disadvantages each project presents, when deciding whether the issuance of a State wetlands license is in the best interest of the State.

The Governor supports HB 517. This legislation clarifies the standard that the Board uses to evaluate a State wetlands license application. That standard has been in place since the enactment of the Tidal Wetlands Act more than 40 years ago, but was modified by a recent Court of Appeals decision. HB 517 codifies principles which are articulated in common law and the Department’s wetlands regulations – namely, that the State owns State wetlands and holds them in trust for the citizens of Maryland and that the Board acts in its proprietary capacity when it decides whether to issue a State wetlands license. HB 517 also explains that the Board shall take into account the varying ecological, economic, developmental, recreational, and aesthetic advantages and disadvantages of each project.

HB 517 does not allow the Board to overturn an approval issued by another agency or local government. Additionally, HB 517 applies only prospectively and does not apply to any State wetlands license application pending before the Board or the Department before July 1, 2014.