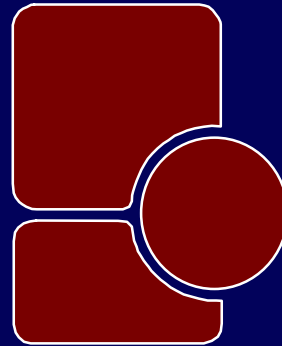


**Joint Legislative Audit and Review Commission
of the Virginia General Assembly**



**Implementation of the Chesapeake Bay
Preservation Act**

**JLARC Staff Briefing
October 15, 2002**

Introduction

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Staff for this study:

Robert B. Rotz, Division Chief

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Gerald A. Craver

Laura C. Whiteley (Part-time)

Ellen M. Jackson (Intern)

Presentation Outline

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- Introduction and Summary of Findings
- Background
- Implementation and Enforcement of the Local Bay Act Programs
- State Administration of the Chesapeake Bay Preservation Act
- Expanding Bay Act Program Coverage in Virginia

Study Mandate

- **The 2001 General Assembly passed House Joint Resolution 622 directing JLARC staff to carry out:**
 - **A performance audit of local program implementation and enforcement and a review of the frequency, consistency, and rationales for local exceptions, variances, or similar decisions**
 - **An examination of the practices of the Chesapeake Bay Local Assistance Board (CBLAB) for assessing local program compliance and the Board's use of its enforcement authority**
 - **An assessment of the current resources necessary for State and local implementation and enforcement of the intent of the Act**

- **As part of JLARC's continuing review of State spending issues, JLARC members indicated that the issue of the potential merger of the Chesapeake Bay Local Assistance Department (CBLAD) into the Department of Conservation and Recreation should also be addressed**

Study Issues

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- Adequacy of local program implementation and enforcement
- Frequency of and rationales for locally permitted encroachments into lands designated as environmentally sensitive
- Adequacy of board oversight and enforcement of local programs
- Adequacy of resources for the department and localities
- Potential structural changes to CBLAD
- Assessment of the CBLAD report regarding potential impacts of expanding the Bay Act to the remainder of Virginia's Chesapeake Bay watershed

Research Activities

■ Structured interviews with:

- The Secretary of Natural Resources, the preceding and current acting directors of the Chesapeake Bay Local Assistance Department, the managers of CBLAD's environmental planning division and administrative division, four environmental engineers, four environmental planners, the grants program administrator, the chairman and four other members of the board, and two past board members
- Staff involved with local Bay Act programs from the following localities: the cities of Alexandria, Chesapeake, Norfolk, Poquoson, Richmond, and Virginia Beach and the counties of Fairfax, Gloucester, Henrico, James City, Lancaster, Mathews, Prince George, and Spotsylvania

Research Activities

(continued)

7

Structured interviews with: (continued)

- Staff in other State agencies, including the Department of Environmental Quality, the Department of Conservation and Recreation, the Virginia Marine Resources Commission, the Virginia Department of Health, and the State's Chesapeake Bay Commission
- Parties with a potential interest in the study issues, including staff from the Virginia Association of Counties, Virginia Municipal League, a member of the Home Builders Association of Virginia, and staff of the Chesapeake Bay Foundation

Research Activities

(continued)

8

- Attendance at:
 - Four quarterly board meetings
 - Meetings of the two local program review committees
 - A meeting of the grants review committee, and
 - CBLAD's first annual technical assistance workshop
- Review and assessment of CBLAD's *Chesapeake Bay Preservation Act – Expansion* report
- Review of selected other states' programs

Research Activities

(continued)

■ Surveys and Site Visits:

- Sent surveys to all 84 counties, cities, and towns subject to the Chesapeake Bay Preservation Act
- Sent surveys to all 104 localities in the potential expansion area as proposed by CBLAD
- Site visits to 14 cities and counties in the Tidewater region and one county in the potential expansion area

■ Data Collection and Analysis:

- Review of 323 local Bay Act program files from eleven counties and cities related to encroachments into the resource protection areas during FY 2000 and FY 2001
- Detailed review of 20 citizen complaint files initiated between July 1997 and 2002 as maintained by CBLAD

Summary of Staff Findings

10

- Initial implementation of local programs consistent with the Bay Act and regulations was slow, although the majority of localities are now consistent with the requirements
- A substantial number of encroachments into the local resource protection areas were granted during FY 2000 and FY 2001, including development in the most environmentally sensitive areas
- CBLAD's oversight and enforcement of the provisions of the Bay Act and regulations has not been sufficient to ensure that local programs are being properly administered, but the department is trying to implement a program to address the compliance review process

Summary of Staff Findings (continued)

11

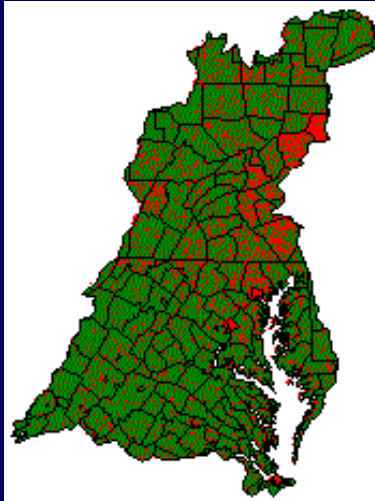
- Options for restructuring the functions of the Chesapeake Bay Local Assistance Department exist; consideration should be given to maintaining CBLAD as a separate organizational entity
- State policy-makers are likely to have to decide the issue of expanding the provisions of the Bay Act to the remaining localities in the Chesapeake Bay's watershed without conclusive data as to the benefits to the environment and the costs to local governments
- Four options regarding the geographic scope of the Bay Act are presented in this report. Given the current fiscal environment and other factors, it appears that a substantial, mandatory expansion of the Act's coverage should be postponed. However, some limited actions could be taken

Presentation Outline

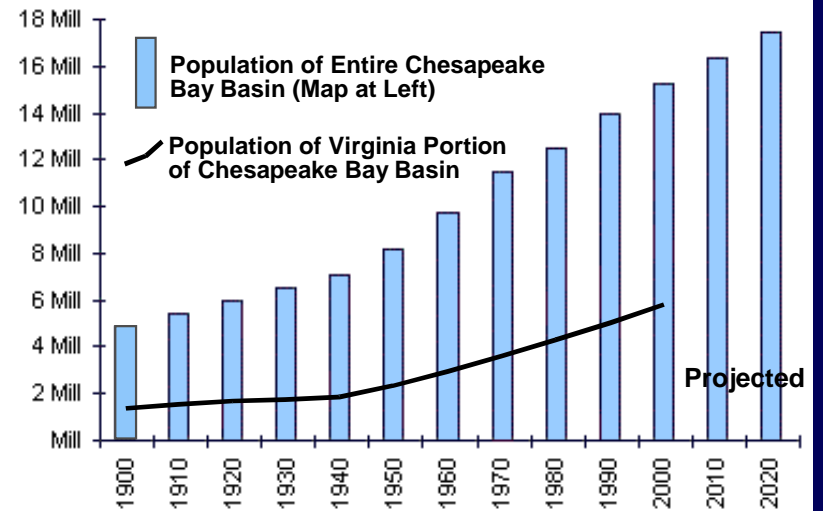
12

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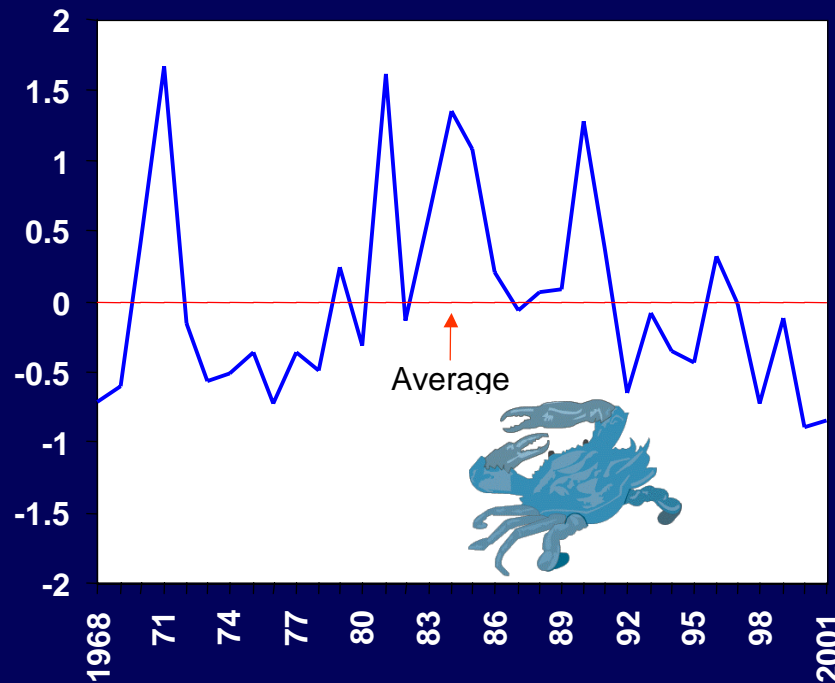
Trends in the Chesapeake Bay Watershed



Population Growth in Watershed

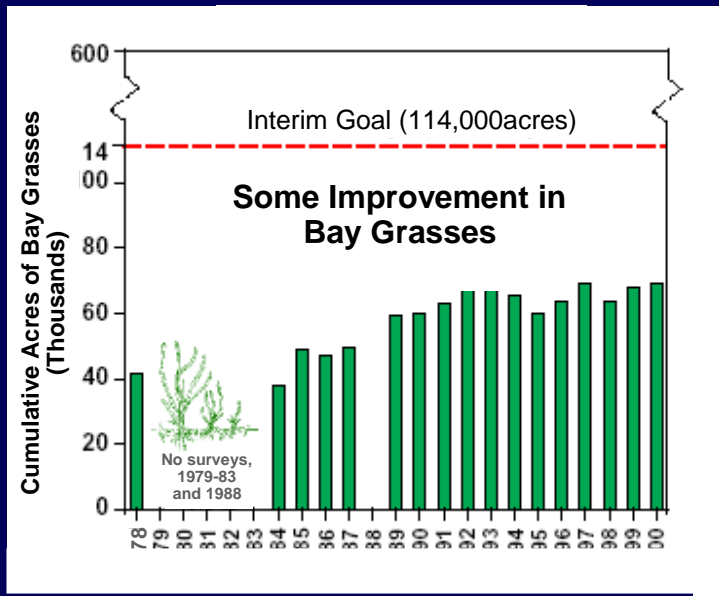
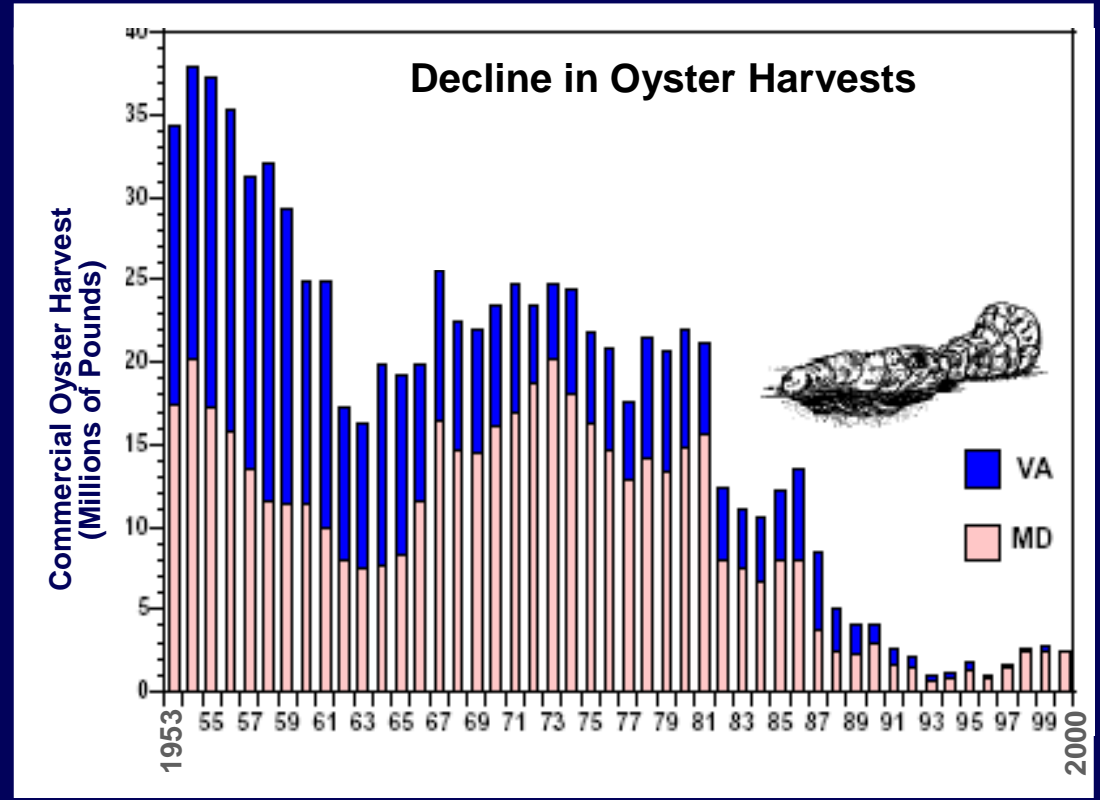


Female Crab Spawning Index for the Bay (Standard Deviations)



Source:
Chesapeake Bay Program

Trends in the Chesapeake Bay Watershed (continued)



Source:
Chesapeake Bay Program

Overview of Trends in Virginia's Bay Watershed Water Quality Indicators

15

Water Quality Indicator	Do Reports Indicate Widespread Trend Toward Improvement in Virginia Bay Watershed Waters Since 1985?	
	YES	NO
Phosphorus	✓	
Nitrogen	✓	
Chlorophyll		✓
Dissolved Oxygen	✓	
Water Clarity		✓
Suspended Solids		✓
Fecal Coliform		✓

Virginia's Commitments to Protect Environmental Resources

16

- Article XI of the *Constitution of Virginia* states that it shall be the policy of the Commonwealth to “conserve, develop, and use its natural resources,” and “protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth”
- Virginia operates several programs that function to address the protection of natural resources, including: water and air pollution prevention, wildlife management, and the enforcement of natural resources laws
- The State administers several programs designed specifically to protect the quality of Virginia's portion of the Chesapeake Bay's waters and other resources

Virginia Is a Signatory to the Chesapeake Bay Agreement

17

- Virginia has been a signatory to each of the five Chesapeake Bay Agreements since 1993, including the Bay 2000 agreement
 - In response to scientific evidence indicating poor water quality in the Chesapeake Bay, Virginia, Maryland, Pennsylvania, Washington, D.C., and the federal Environmental Protection Agency signed the first Chesapeake Bay Agreement in 1983
 - Amendments to the Bay Agreement were adopted in 1987, 1992, and 2000, with the last set of updates including additional land use protection and restoration goals
 - As part of the Chesapeake Bay 2000 Agreement, the states agreed to reduce the rate of “harmful sprawl” development by 30 percent by 2010, and agreed to promote sound land use practices

Several State Agencies Are Responsible for the Chesapeake Bay 2000 Agreement's Commitments

Agency	Living Resources	Vital Habitat	Water Quality	Sound Land Use	Stewardship and Community Engagement
<i>NATURAL RESOURCE AGENCIES</i>					
CBLAD		✓	✓	✓	✓
DCR	✓	✓	✓	✓	✓
DEQ	✓	✓	✓	✓	✓
DGIF	✓	✓	✓	✓	✓
DHR				✓	✓
DOF		✓	✓	✓	✓
VMNH					✓
VMRC	✓	✓		✓	✓
<i>Other Agencies</i>					
DGS		✓			✓
DHCD				✓	
DOE					✓
VDACS	✓	✓	✓	✓	
VDH			✓	✓	
VDOT	✓	✓	✓	✓	✓

Statutory Requirements of the Chesapeake Bay Preservation Act

19

- Section 10.1-2100 of the *Code of Virginia* defines the Chesapeake Bay Preservation Act as a “cooperative State-local program”
 - Local governments have the initiative for planning and for implementing the provisions of the Bay Act
 - The Commonwealth shall act primarily in a supportive role by providing oversight for local governmental programs, by establishing criteria as required by this chapter, and by providing those resources necessary to carry out and enforce the provisions of this chapter
- The Bay Act defines Tidewater, Virginia to include 84 of the State’s eastern-most counties, cities, and towns

Localities Subject to the Provisions of the Chesapeake Bay Preservation Act

TOWNS

- | | |
|----------------|--------------|
| Ashland | Nassawadox |
| Belle Haven | Occoquan |
| Bloxom | Onancock |
| Bowling Green | Onley |
| Cape Charles | Painter |
| Cheriton | Parksley |
| Claremont | Port Royal |
| Clifton | Quantico |
| Colonial Beach | Saxis |
| Dumfries | Smithfield |
| Eastville | Surry |
| Exmore | Tangier |
| Hallwood | Tappahannock |
| Haymarket | Urbanna |
| Herndon | Vienna |
| Irvington | Warsaw |
| Kilmarnock | West Point |
| Melfa | White Stone |
| Montross | Windsor |



Statutory Responsibilities of the Tidewater Localities Under the Bay Act

21

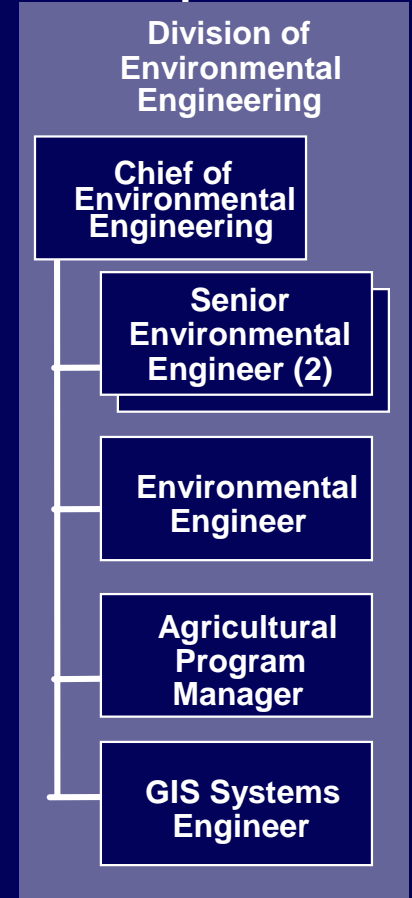
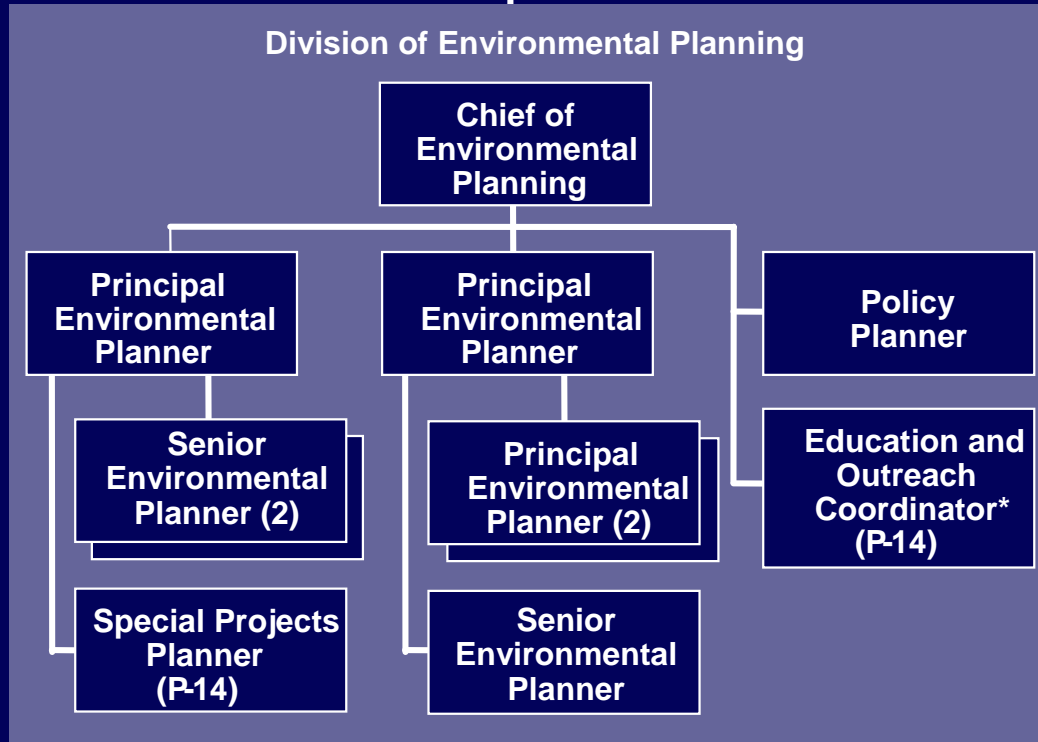
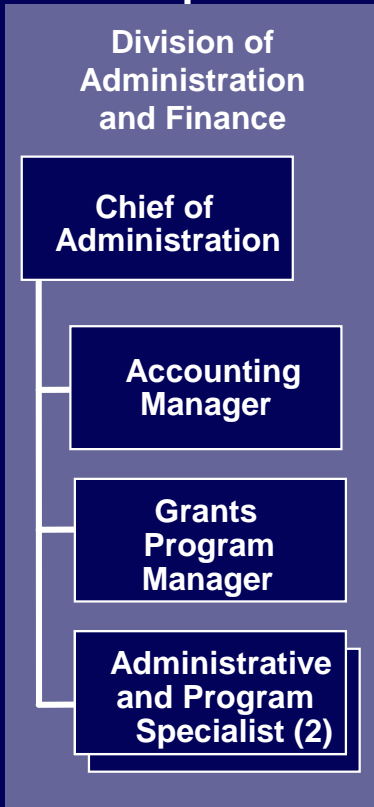
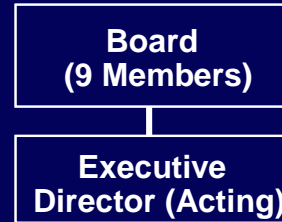
- Sections 10.1-2108 through 10.1-2111 of the *Code of Virginia* authorizes the responsibilities of the Tidewater localities:
 - To exercise their police and zoning powers to protect the quality of state waters consistent with the Bay Act
 - To designate the extent of environmentally sensitive lands, known as Chesapeake Bay Preservation Areas, in their jurisdictions
 - To incorporate protection of the quality of State waters in the Chesapeake Bay Preservation Areas using the criteria established in the regulations as part of local zoning ordinances, subdivision ordinances, and comprehensive plans

CBLAB Powers and Duties Under the Bay Act

22

- **Sections 10.1-2102 through 10.1-2107 of the *Code of Virginia* establish the Chesapeake Bay Local Assistance Board and define its powers and duties to include:**
 - **Development, promulgation, and maintenance of criteria to assist the Tidewater localities in “regulating the use and development of land and in protecting the quality of State waters” and “granting, denying, or modifying requests to rezone, subdivide, or to use and develop” environmentally sensitive lands**
 - **Provision of financial and technical assistance and advice to local governments and regional and State agencies concerning aspects of land use, development, and water quality protection**
 - **Taking administrative and legal actions to ensure continual compliance by the Tidewater localities with the provisions of this chapter, including proper enforcement and implementation**

Organization of the Chesapeake Bay Local Assistance Department



*Position eliminated during course of study.

Presentation Outline

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- Introduction and Summary of Findings
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Tidewater Localities Indicated Support for the Bay Act

25

- In response to questions on the JLARC staff survey:
 - Sixty percent of the localities indicated that the Bay Act strikes a proper balance between State regulation and private property rights
 - Seventy percent of the localities indicated that the Bay Act has been effective in limiting pollution

CBLAB's Process for Localities to Ensure Compliance with the Bay Act

26

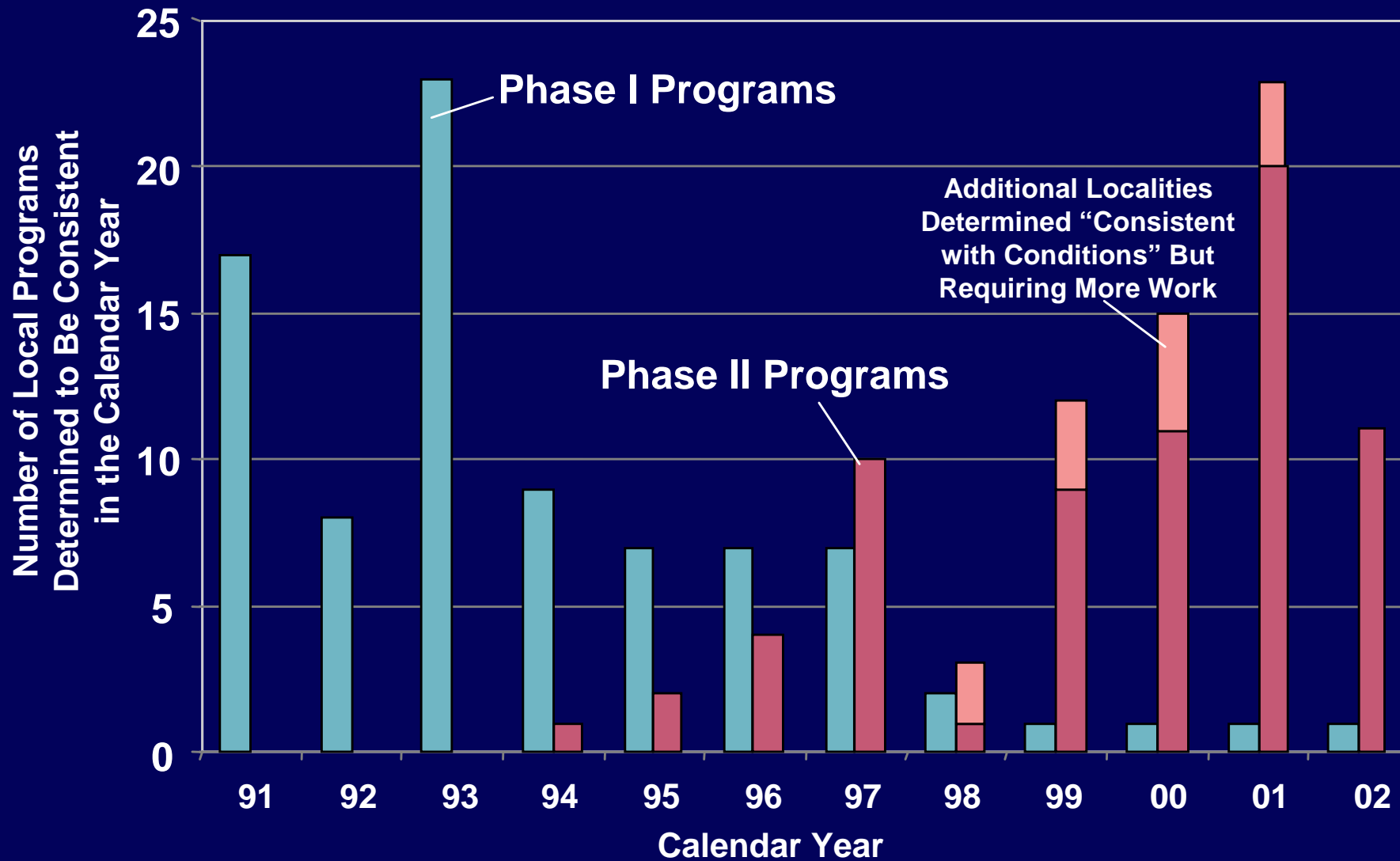
- **Section 9 VAC 10-20-231 of the Board's current regulations establishes a three phase management program that the Tidewater localities are required to meet**
 - **Phase I consists of localities designating the extent of environmentally sensitive lands, known as Chesapeake Bay Preservation Areas, in their jurisdictions and incorporating the Board's performance criteria into local zoning ordinances and subdivision ordinances**
 - **Phase II consists of localities implementing the water quality measures in CBLAB's regulations into their comprehensive plans**
 - **Phase III requires localities to revise all of their land use ordinances and regulations to comply with the provisions of the Bay Act and CBLAB's regulations, and has been described as an iterative process with no fixed end date**

Code of Virginia and Regulations Established Schedule for Achieving Local Consistency

27

- Section 10.1-2107(E) of the *Code of Virginia* required that by July 1, 1989 the Board adopt regulatory performance criteria for localities to use in determining the extent of CBPAs in their jurisdictions and also the use and development of these lands
- Section 10.1-2109(A) of the *Code of Virginia* required that no later than 12 months after the Board adopted the regulatory criteria, the Tidewater localities would designate the Chesapeake Bay Preservation Areas in their jurisdictions and adopt the Board's regulatory performance criteria
- The Board established a deadline of 24 months after adoption of these regulatory performance criteria for all Tidewater localities to amend their comprehensive plans and local ordinances to include water quality protection measures

Few Local Programs Were Consistent with Phase I or Phase II as Scheduled



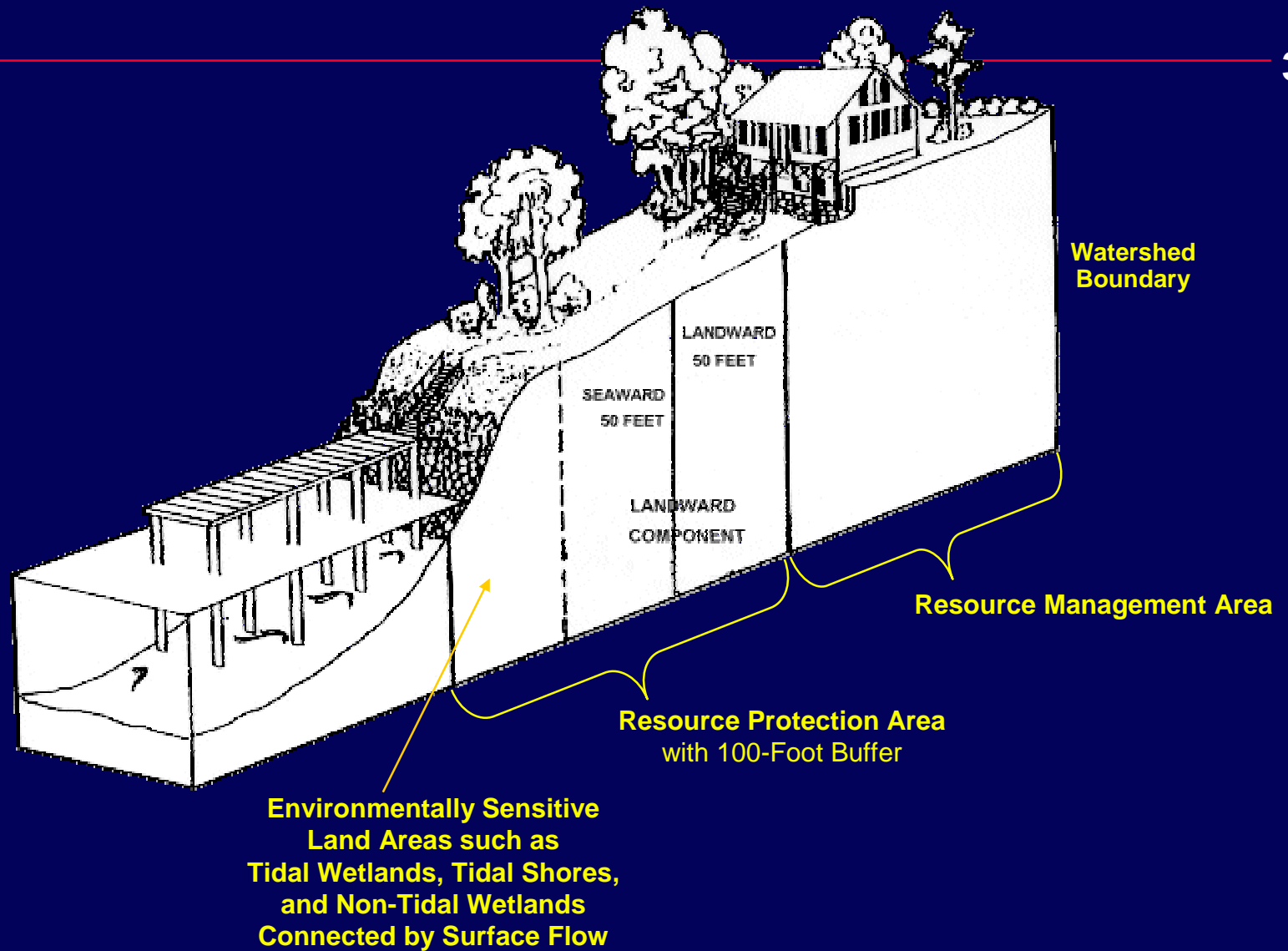
Slow Progress in Achieving Phase I and Phase II Consistency Was Caused by Several Factors

29

- According to CBLAD's acting director, the original goal of twelve months to adopt the regulatory criteria was unrealistic, because:
 - Not all localities had land ordinances in place, yet these were required to be amended to include the Bay Act's water quality protections
 - Some localities lacked the resources needed to designate Chesapeake Bay Preservation Areas and adopt the performance criteria
- Part of the delay was attributable to resistance from some groups during the early years of the program's implementation

Chesapeake Bay Preservation Areas

30



Encroachments Into the Resource Protection Areas

31

- CBLAB regulations allow some types of development into the Resource Protection Areas
- CBLAB regulations also allow local governments to administratively grant encroachments up to 50 feet into the Resource Protection Areas, under certain conditions; and localities may also grant some exceptions
- However, frequent encroachments, and particularly encroachments into the seaward 50-feet of the 100-foot buffer, raise water quality concerns and can undermine the intent of the Bay Act and its regulations

Extent of Encroachment Activity in Resource Protection Areas Varied by Locality

Locality	Total RPA Encroachment Applications Reviewed	Total Encroachment Applications Approved	Seaward 50 Feet of the RPA Approvals Only	
			Non-Exempt Applications Approved	Non-Exempt Applications Approved, as Percent of Total Applications
Alexandria	6	6	4	67 %
Virginia Beach	55	50	37	67 %
Chesapeake	75	75	35	47 %
Gloucester	34	31	7	21 %
Richmond City	12	12	2	17 %
James City	43	43	7	16 %
Henrico	14	14	1	7 %
Lancaster	50	50	2	4 %
Fairfax	24	23	1	4 %
Spotsylvania	6	6	0	0 %
Prince George	4	4	0	0 %
Total	323	314	96	30 %

Local Enforcement of Certain Performance Criteria Has Been Uneven

33

- Localities enforce their local Bay Act programs through land use ordinances that contain CBLAB's performance criteria
- Based upon the previous regulations, responses to the JLARC staff survey of Tidewater localities identified instances where certain performance criteria were not being fully administered and enforced:
 - Five of the 22 counties and cities responding to the JLARC staff survey indicated they did not require a property owner to sign a best management practices maintenance agreement as required by the regulations
 - At least four Tidewater counties that rely heavily upon septic systems for wastewater treatment indicated that they did not require pump-out of these systems at least once every five years

Recommendations

- ***Recommendation.*** The Chesapeake Bay Local Assistance Board and Department should ensure through the compliance review process that the Tidewater localities enforce the 100-foot Resource Protection Area buffer requirement as established in the Chesapeake Bay Preservation Area Designation and Management Regulations
- ***Recommendation.*** Through the compliance review process, the Chesapeake Bay Local Assistance Department should ensure that the Tidewater localities are enforcing BMPs to mitigate for RPA encroachments that are based on signed maintenance agreements. CBLAD should also require localities to periodically inspect BMP's to ensure property owners maintain them. In addition, Tidewater localities, CBLAD, and the Virginia Department of Health should jointly develop a process to ensure that residential septic systems are identified and periodically maintained in accordance with Board regulations

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CBLAD Provides Localities with Financial and Technical Assistance

36

- **Prior to the beginning of FY 2003, CBLAD administered three grant programs for assisting localities, planning district commissions, and soil and water conservation districts with implementing the provisions of the Bay Act, including:**
 - **Local Competitive Grants Program**
 - **Agricultural Water Quality Grant Program**
 - **Technical Assistance Grants**

- **CBLAD also provides a variety of technical assistance and support to these groups:**
 - **Reviewing plans of development when requested by localities**
 - **On-site inspections**
 - **Providing guidance on implementation of the regulations**

Localities Approve of CBLAD's Provision of Technical Assistance

37

- In response to questions on the JLARC staff survey of Tidewater localities concerning CBLAD's provision of technical assistance:
 - Eighty-four percent of the respondents indicated that the amount and quality of assistance provided by the local liaison was appropriate
 - Ninety-six percent of the respondents indicated that CBLAD staff respond to locality requests in a timely manner
 - Sixty-four percent of the respondents indicated that they were comfortable with the amount and effectiveness of the opportunities for training provided by CBLAD
- However, the localities have also identified a need for increased training on a Tidewater-wide level

***Code of Virginia* Requires the Board to Ensure Local Compliance of the Bay Act**

38

- Section 10.1-2103(10) of the *Code of Virginia* requires the Board to “take administrative and legal actions to ensure compliance by counties, cities and towns with the provisions of this chapter including the proper enforcement and implementation of, and continual compliance with, this chapter”

Board and Department Oversight of the Local Programs Has Been Weak

39

- Originally, the Bay Act operated with no internal process to investigate possible local violations or misapplications
- In 1997, the Board adopted a complaint-driven procedure for investigating potential violations of the Bay Act
 - As part of CBLAD's Fiscal Year 2000 – 2002 budget request, the department stated: “When performing in a reactive, complaint based system, it is essentially impossible to ensure effective local compliance in its implementation program”
- According to Board members and department staff, CBLAD's primary focus during this time was in achieving local consistency with the requirements of Phase I and Phase II

Factors Contributing to the Lack of More Proactive Oversight

40

- **Some questions about the scope of the Board's authority to ensure compliance, and a reluctance by the Board to disturb the partnership approach in pursuing enforcement actions**
- **A lack of adequate resources to more proactively and uniformly review the implementation of the local programs**
- **Delays in the promulgation of new regulations also made the Board reluctant to take action under the previous regulations**

Attorney General's Opinion in 2001 Defines Actions Available to the Board

41

- **In November 2001, the State's Attorney General issued an opinion clarifying and strengthening the Board's ability to ensure local compliance with the provisions of the Bay Act**

- **Specifically, the Attorney General found that the Board may:**
 - **Bring legal action to discontinue development based solely on an approved plan that clearly shows a violation of the Act and Board Regulations**

 - **File an injunction against site developers where they are violating the Act and Board Regulations**

 - **Seek a court order prohibiting the issuance of permits [for land-disturbing activities] by a locality until it is compliant with the Act and Board Regulations**

CBLAD Is Attempting to Implement a Compliance Review Process

42

- **Since 1997, CBLAD has been developing a Tidewater-wide review process to ensure that local programs are being implemented and enforced in a manner consistent with the Bay Act and regulations**
- **CBLAD liaison staff will perform site visits to local development activities to assess whether conditions shown on the plans or required by the local government are actually being applied during the development**
- **Furthermore, CBLAD staff will review the local program's protection of CBPAs, application of BMPs, enforcement of the septic tank pump-out mandate, and enforcement of the agricultural and silvicultural agreements**
- **Completion of an initial review in each of the 84 Tidewater localities is projected by CBLAD staff to take approximately 42 months**

Recommendations

- ***Recommendation.*** The Chesapeake Bay Local Assistance Department should provide training to the members of the Board and the local governments on the potential administrative and legal options available to the Board for ensuring compliance with the provisions of the Bay Act and regulations
- ***Recommendation.*** The Chesapeake Bay Local Assistance Department should begin training local program staff on the requirements and activities associated with the Local Program Compliance Review as soon as possible after adoption by the Board

Budget Constraints May Impact CBLAD's Ability to Perform Bay Act Functions

44

- **Current vacancies within CBLAD may impact the department's ability to address locality assistance needs and meet its information technology needs**
- **The effectiveness of the agency's Polecat Creek Project in Caroline County has been impacted by funding issues**
 - **In two of the past three years, one of the five chemical and hydrological monitoring stations has not been operated**
 - **Further reductions in the department's overall budget may require the elimination of the Polecat Creek Project**

Recommendations

45

- ***Recommendation.*** The Chesapeake Bay Local Assistance Department should seek to fill its vacant local liaison position, when State hiring and budget policies provide this opportunity
- ***Recommendation.*** The Secretary of Natural Resources should request that the Chesapeake Bay Local Assistance Department prepare a document prior to the 2003 General Assembly Session that will assist policy-makers in deciding whether the Polecat Creek Monitoring project can and should be continued in spite of current State budget difficulties

Grants Program Provided Financial Assistance to Some Localities

46

- Between FY 1991 and FY 2002, the local competitive grants program provided localities and PDCs with almost \$9 million for developing and implementing aspects of local programs
- Past grant awards were used for developing and/or revising comprehensive plans, preparing and distributing educational materials about local programs, and mapping environmentally sensitive areas
- On average, CBLAD annually awarded 29 grants, worth an approximate amount of \$25,000 per grant between FY 1991 and FY 2002

Virtual Elimination of Local Grants Program Impacts Localities

47

- The 2002 Appropriations Act provided \$40,462 to CBLAD for the assistance to localities program in both FY 2003 and FY 2004; this amount was \$1 million less than the appropriation in the prior year
- As a result, some localities will have to increase their share of the costs of the program or not be able to continue certain functions
- Local requests to CBLAD for technical assistance will likely increase

Recommendation

48

- ***Recommendation.*** The Chesapeake Bay Local Assistance Department should include a request for funding for a local competitive grants program to achieve Bay Act purposes as part of its budget request, at a time when State revenue availability appears to provide this opportunity

Several Options Exist Regarding the Organizational Structure of CBLAD

49

■ Structural options include:

- Continuing the Bay Act as currently organized
- Consolidating CBLAD with the Department of Conservation and Recreation
- Creating an agency charged with limiting nonpoint pollution impacts on the Bay
- Transferring functions CBLAD shares with other agencies to those agencies, with CBLAD focusing on its core activity – assisting localities with protecting water quality through land management activities

Potential Benefits and Concerns About the Possible Merger of CBLAD into DCR

50

- **Potential benefits include:**
 - Some costs savings
 - Better coordination of certain functions, including Stormwater Management and Erosion and Sediment Control

- **Concerns with such a merger include:**
 - Cost savings would likely be small
 - Possible loss of visibility for the State's efforts to protect the Bay's water quality
 - Reorganizations typically take substantial time and effort to accomplish and could further impede CBLAD's progress towards implementing the compliance review process

- **While various structural arrangements could potentially work, consideration should be given to maintaining CBLAD as a separate organizational entity**

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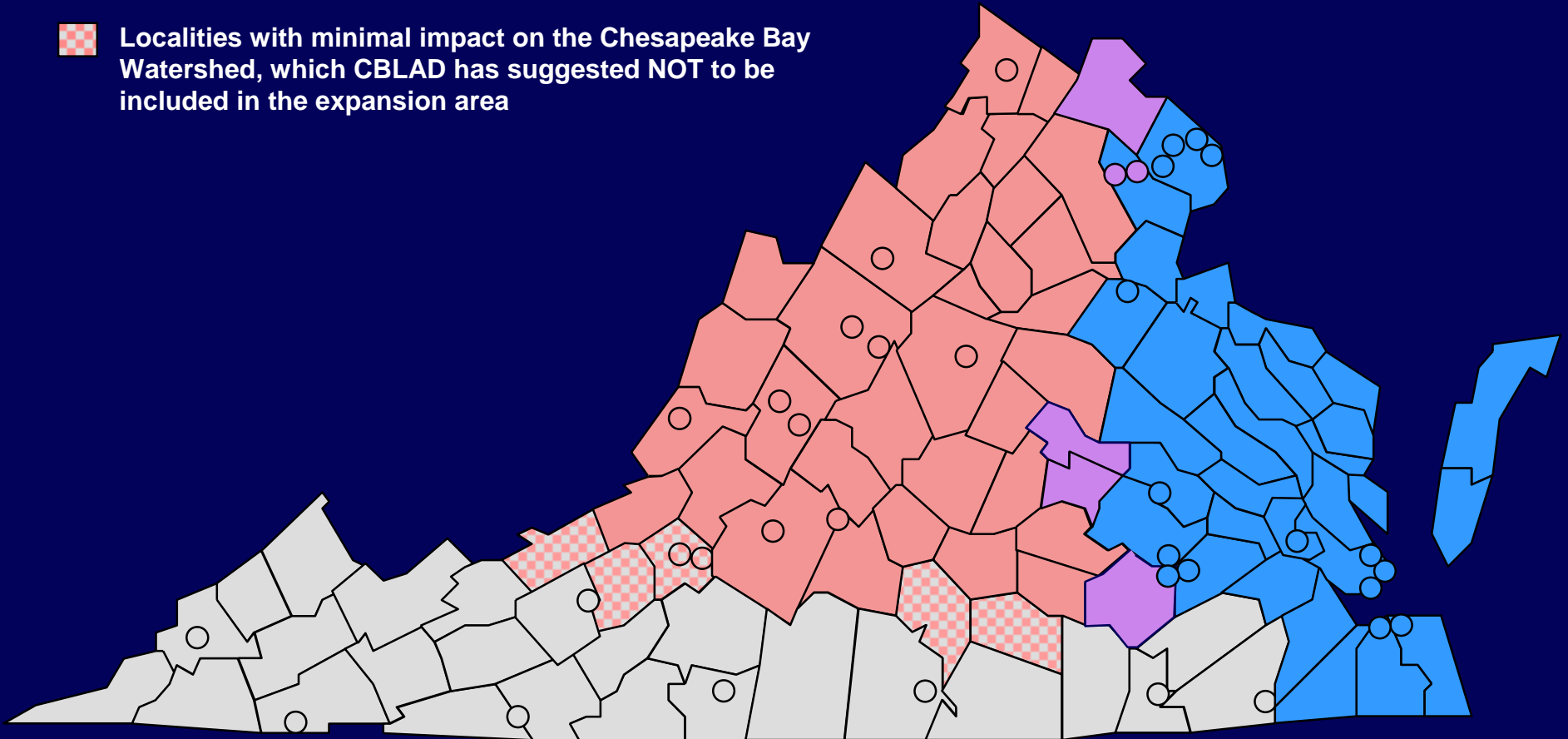
HJR 622 Required CBLAD to Report on a Potential Expansion of the Bay Act

52

- HJR 622 identified several issues for CBLAD to examine concerning expanding the objectives of the Bay Act to the localities in the Chesapeake Bay watershed not already subject to its provisions, including an assessment of the benefits to the environment and costs to local governments of expansion
- CBLAD's report, furnished late last year to JLARC staff, concludes that the application throughout the Bay watershed of the goals, objectives, and program's associated with the Act is "warranted"

Localities in the Chesapeake Bay Watershed

- Localities under the Chesapeake Bay Preservation Act (Tidewater area)
- Localities proposed by CBLAD for inclusion in the expansion area (Western Watershed)
- Localities in expansion area suggested by CBLAD to be included in the current Bay Act
- Localities with minimal impact on the Chesapeake Bay Watershed, which CBLAD has suggested NOT to be included in the expansion area



CBLAD's Expansion Report Does Not Fully Identify Benefits and Costs

54

- **CBLAD's report is a legitimate effort directed toward meeting a difficult assignment**
- **CBLAD estimates that initial start-up costs for the State could be between \$400,000 and \$600,000, with annual costs thereafter of about \$2.4 million**
- **The report does not quantify local government cost impacts, and it indicates that fully and accurately quantifying the benefits (and landowner costs) is not feasible at this time; impacts are described qualitatively**
- **The report could have attempted to quantify the anticipated impacts of some of the key components of the expansion, however, such as the use of best management practices**

The Views of Localities in the Proposed Expansion Area Present a Mixed Picture

Survey Item	Percentage of Respondents Reporting				
	Strongly Agree	Agree	Disagree	Strongly Disagree	Unclear or No Opinion
More actions by local governments are needed to address water quality issues in Virginia.	11	59	8	1	20
My locality tends to think that the westward expansion of the Bay Act would be beneficial to water quality in our locality and in the Chesapeake Bay.	0	33	26	7	34
This local government supports expanding the requirements of the Bay Act to the localities in the Chesapeake Bay watershed that are not already subject to the Act.	0	11	16	16	57
In my locality, there is a high level of understanding about how participation in the Bay Act program would likely impact our locality.	0	14	52	24	10

State Should Consider Postponing Mandatory Expansion

56

- Policy options for addressing the issue of expanding the requirements of the Bay Act and regulations to the remaining localities in the Chesapeake Bay watershed include:
 - (1) Taking no action to expand the program currently
 - (2) Expanding the coverage of the Bay Act to include all localities in the Chesapeake Bay watershed not already subject to the provisions of the Bay Act
 - (3) Adding to the Bay Act's coverage area only the 13 localities that are part of a planning district already located in the Tidewater designation
 - (4) Postponing any expansion of the program, while enabling CBLAD staff to work with localities in the proposed expansion area that indicate an interest