

**REPORT OF THE  
SECRETARY OF NATURAL RESOURCES**

**Proposed Agency Reorganization  
Plan to Merge the Chesapeake  
Local Assistance Department  
and the Department of  
Conservation and Recreation**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 2**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2005**



# COMMONWEALTH of VIRGINIA

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August 31, 2004

The Honorable John H. Chichester  
Chairman, Senate Finance Committee  
General Assembly Building, Room 626  
P.O. Box 396  
Capitol Square  
Richmond, Virginia 23218

The Honorable Vincent F. Callahan, Jr.  
Chairman, House Appropriations Committee  
General Assembly Building, Room 947  
P.O. Box 406  
Capitol Square  
Richmond, Virginia 23218

Re: Report regarding the merger of the Chesapeake Bay Local Assistance Department into the Department of Conservation and Recreation

Dear Senator Chichester and Delegate Callahan:

The 2004 Appropriations Act (House Bill 5001), passed by the General Assembly and signed by Governor Warner, included language that directed the merger of the Chesapeake Bay Local Assistance Department (CBLAD) with the Virginia Department of Conservation and Recreation (DCR).

The Appropriations Act also directed the Secretary of Natural Resources to prepare an agency reorganization plan for submission to the Chairmen of the House Appropriations and Senate Finance Committees by August 31, 2004. The enclosed plan of merger is hereby submitted, as directed in the applicable legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Tayloe Murphy, Jr.", written in a cursive style.

W. Tayloe Murphy, Jr.

WTM/zh

Enclosure

c: Mr. Joseph H. Maroon  
Mr. C. Scott Crafton

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## EXECUTIVE SUMMARY

The 2004 Appropriations Act (House Bill 5001) included language that directed the merger of the Chesapeake Bay Local Assistance Department (CBLAD) with the Virginia Department of Conservation and Recreation (DCR). The Appropriations Act directed the Secretary of Natural Resources to prepare an agency reorganization plan for submission to the Chairmen of the House Appropriations and Senate Finance Committees by August 31, 2004. In developing this plan, the Secretary was directed to consult with Tidewater localities and Tidewater Soil and Water Conservation Districts. In addition, the plan was to include various provisions to “. . . ensure that the core operations of the Chesapeake Bay Local Assistance Department and Chesapeake Bay Local Assistance Board shall continue.”

In accordance with the budget language, in July 2004 the Secretary of Natural Resources sent a questionnaire to all the Tidewater Virginia local governments, soil and water conservation districts, planning district commissions and major stakeholder organizations involved with the Bay Act. Responses were sent to Joseph H. Maroon, the DCR Director. Subsequently, several meetings were held with appropriate DCR staff to plan the merger process and outcomes. This plan outlines actions to date and identifies areas of future and continued efficiencies and coordination resulting from the merger.

On July 1, 2004, the former Chesapeake Bay Local Assistance Department became the new Division of Chesapeake Bay Local Assistance (DCBLA) within the Virginia DCR. Division status within DCR provides the greatest potential for the intricate program knowledge and service orientation to remain intact. At the same time, the merger offers several areas of greater integration and coordination between the DCBLA and other DCR units, especially the Division of Soil and Water Conservation (DSWC). These are actively being pursued. No physical movement of offices was necessary to effectuate the merger, and the DCBLA will continue to occupy its space in the Monroe Building.

The nine-member Chesapeake Bay Local Assistance Board remains unaffected by the merger. However, primary staff responsibilities have passed to the DCR Director who, along with his office staff and the division staff, will serve the Chesapeake Bay Local Assistance Board in carrying out its statutory authorities.

DCR leadership identified several steps it will take as part of the initial merger plan, including some staff realignment. Some of these actions have already been completed or are in the process of being completed; others are projected to be addressed over the next 6-12 months. These are outlined below:

- To consolidate administrative and financial functions, two DCBLA staff members have been transferred into DCR's Administration and Finance divisions.
- Two engineering staff members will be combined with DSWC urban stormwater program staff to more efficiently and effectively accomplish the various responsibilities of existing stormwater requirements, as well as those DCR will undertake as a consequence of the new, streamlined State stormwater management program pursuant to HB1177 (2004).
- DCR will assure that compliance evaluations are better-coordinated and conducted regarding

local erosion control, stormwater management and Bay Act programs.

- DCR staff will coordinate construction site plan reviews for state and federal projects, as well as requests from local governments for site plan review assistance and review of state and federal environmental impact statements and environmental assessments.
- DCR staff in the DCBLA and DSWC will improve coordination of nonpoint source program reporting and tracking to meet regulatory requirements, assure local government compliance with regulatory requirements, and provide needed data regarding progress toward meeting Chesapeake Bay water quality goals and commitments, while minimizing any duplicative reporting by various program constituents.
- DCR staff will improve coordination of various agricultural conservation programs including those related to the Bay Preservation Act.
- DCR will consider ways to provide critical funding assistance, now missing, for localities subject to the Chesapeake Bay Preservation Act.

There appear to be other opportunities to better integrate nonpoint source pollution control planning and implementation efforts within DCR as a consequence of this merger. Those actions will be more carefully considered over the next 18 months.

In order to complete the intent of the merger, the Department is working with the Governor's Office and the Secretary of Natural Resources in preparing legislation for the 2005 General Assembly session to accomplish the necessary statutory changes. The Chesapeake Bay Preservation Act (§10.1-2100 et seq., Code of Virginia) will need minimal amendments to effectuate in statute what has already occurred in fact (as directed by the 2004 Appropriations Act). Counsel from the Attorney General's office has advised that the Preservation Act may remain in §10.1-2100 and does not need to be relocated under some other section of the Code of Virginia pertinent to DCR. Similar changes will need to be made to the Bay Act Regulations (9 VAC 10-20) and the Board's Public Participation Guidelines (9 VAC 10-10).

Incorporating the responsibilities for the Chesapeake Bay Preservation Act within DCR will strengthen the collaborative support fabric that already existed between the two agencies' programs and improve non-point source service delivery to local governments through an integrated approach. Further coordination and streamlining of reporting, tracking and local program evaluation will become more easily developed under the merger plan, while maintaining a high level of "Chesapeake Bay Preservation Act" visibility.

The Appropriations Act passed by the 2004 General Assembly reduced funding and MEL from CBLAD and transferred the remainder to DCR. Since 2002, the CBLAD has incurred aggregate funding reductions of \$1,434,793, or approximately a 54% reduction of the appropriation to the agency at the beginning of FY2002. While the merger will produce greater efficiencies and effectiveness in carrying out the agency's overall mission related to nonpoint source pollution, little, if any, additional cost savings beyond those included in the Appropriations Act or already effectuated are likely to result. This conclusion is consistent with the Report of the Joint Legislative Audit and Review Commission (JLARC) entitled "Implementation of the Chesapeake Bay Preservation Act" (House Document No. 23, 2003).

## INTRODUCTION

The 2004 Appropriations Act (House Bill 5001), passed by the General Assembly and signed by Governor Warner, included language that directed the merger of the Chesapeake Bay Local Assistance Department (CBLAD) with the Virginia Department of Conservation and Recreation (DCR). Specifically, item #379, page 323 directed the following to occur:

*Notwithstanding Title 10.1 Chapter 21, Code of Virginia, the Chesapeake Bay Local Assistance Department will be merged with the Department of Conservation and Recreation effective July 1, 2004. The powers and duties heretofore exercised by such agency shall hereafter be vested in the Department of Conservation and Recreation. The Chesapeake Local Assistance Board shall remain a collegial body pursuant to Title 10.1 Chapter 21.*

*The Department of Conservation and Recreation is by statute (10.1-104.1) the Commonwealth's lead agency for coordinating activities aimed at controlling nonpoint source pollution statewide. Programs range from voluntary and incentive-based to mandatory regulatory programs. As the lead agency, DCR works in conjunction with state, local and federal agencies and with private individuals and companies to control nonpoint source pollution.*

DCR has several core program areas that are implemented statewide and are supportive of, and fundamental to, the implementation of the Chesapeake Bay Preservation Act. These include the Erosion and Sediment Control Program, the Stormwater Management Program, the Nutrient Management Program, several agricultural best management practice incentive programs, the shoreline erosion advisory service, watershed planning and several grant programs. In addition, DCR has responsibility for providing technical, financial and administrative assistance to Virginia's 47 Soil and Water Conservation Districts (SWCDs). The 14 SWCDs in "Tidewater Virginia", as defined in the Code of Virginia, have previously worked under contract to CBLAD to implement the agricultural provisions of the Bay Act regulations on behalf of the localities they serve.

The Appropriations Act directed the Secretary of Natural Resources to prepare an agency reorganization plan for submission to the Chairmen of the House Appropriations and Senate Finance Committees by August 31, 2004. In developing this plan, the Secretary was directed to consult with Tidewater localities and Tidewater Soil and Water Conservation Districts. In addition, the plan is to include "any necessary steps to ensure that the purposes of the Chesapeake Bay Preservation Act are implemented by DCR, indicate whether former CBLAD resources and personnel will constitute a new division within DCR or a component of an existing division, and identify any positions that will be eliminated or other actions needed to achieve the policy goals and cost savings." Finally, the budget language specified that "it is the intent of the General Assembly that legislation be introduced in the 2005 Session to effect this merger. This legislation shall ensure that the core operations of the Chesapeake Bay Local Assistance Department and Chesapeake Bay Local Assistance Board shall continue."

Accordingly, this plan is being submitted in conformance with the instructions contained in the 2004 Appropriations Act. I am indebted to Mr. Joseph Maroon, Director of DCR, and Mr. Scott Crafton, the former Executive Director of CBLAD, and their key leadership staff who developed steps to implement these directives. This plan outlines actions to date and identifies areas of future and continued efficiencies and coordination resulting from the merger.

It is important to point out that final authorization of the merger did not occur until three weeks before the end of FY2004, when it became certain that the merger was to go into effect on the first day of FY2005. Therefore, planning for the merger will need to continue over the next several months.

## **SURVEY OF LOCAL GOVERNMENT AND STAKEHOLDERS**

In accordance with the budget language, the Secretary of Natural Resources sent a letter to all the Tidewater Virginia local governments, soil and water conservation districts, and planning district commissions in July, announcing the merger. A similar letter was also sent to major stakeholder organizations involved with the Bay Act. A questionnaire was included with these letters, inviting the recipients to provide their responses to questions relating to the merger. Their responses were sent to Joe Maroon, the DCR Director. As of August 27<sup>th</sup>, 18 responses were received (12 local governments, 2 soil and water conservation districts, 3 planning district commissions, and one stakeholder organization).

Several key points pertaining to the merger plan were made by multiple respondents. First, some responses suggested that the former CBLAD staff should remain intact in order to effectively and efficiently implement Bay Act program goals for local assistance, guidance and enforcement. Respondents expressed hope that the good support they had received from CBLAD staff will continue following the merger. Second, there was interest in seeing the state's stormwater management program efforts consolidated, along with the associated issues of coordinating annual reporting requirements and processes and local compliance evaluations. (This is in the process of being accomplished as a result of House Bill 1177, which successfully passed the 2004 Session. The merger will further these efforts.) Also, there was considerable interest in seeing funding for competitive grants restored or other funding assistance made available to assist local Bay Act program partners in their efforts to implement the program. Other comments addressed program implementation, technical assistance, regulations, guidance, and education and outreach. The survey responses will continue to be considered as the merger moves forward.

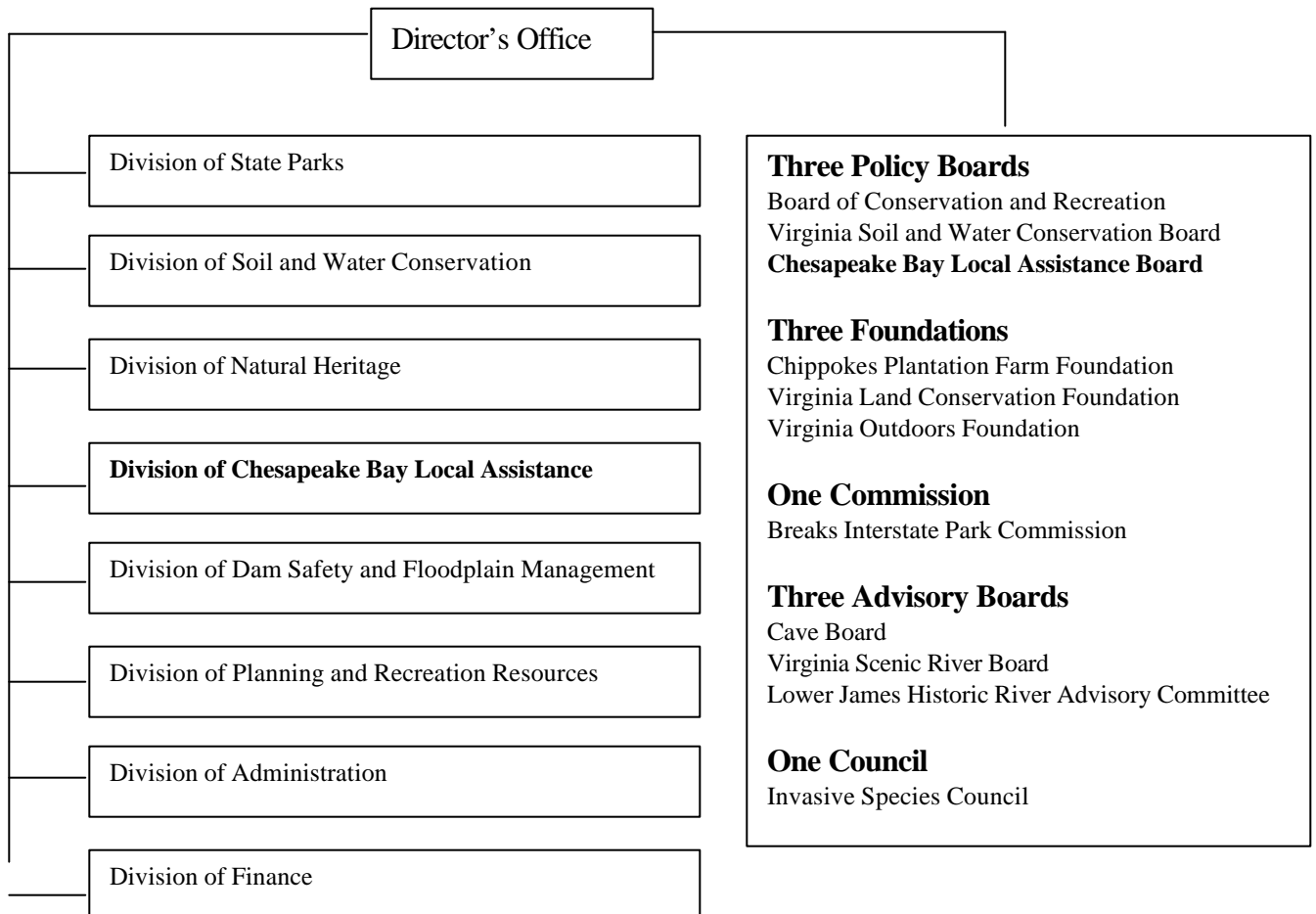
# PROGRESS TO DATE

## *Establishment of a separate Division within DCR*

On July 1, 2004, the former Chesapeake Bay Local Assistance Department became the new Division of Chesapeake Bay Local Assistance within the Virginia DCR. There are seven other divisions within DCR including State Parks, Soil and Water Conservation, Natural Heritage, Dam Safety/Floodplain Management, Planning and Recreation Resources, Administration and Finance.

The creation of a separate division is consistent with recommendations contained in the November 15, 2002 report submitted by the Secretary of Natural Resources to the Governor and General Assembly. Along with leadership within DCR, the Secretary supported establishing and maintaining the primary functions of the CBLAD as a separate, new division within the larger agency. Division status within DCR provides the greatest potential for the intricate program knowledge and service orientation to remain intact. At the same time, the merger offers several areas of greater integration and coordination between the new Division of Chesapeake Bay Local Assistance (DCBLA) and other DCR units, especially the Division of Soil and Water Conservation (DSWC). These are actively being pursued, along with some appropriate staff reassignments that have been or will be made.

### **Virginia Department of Conservation and Recreation Organizational Chart**





The new DCR Division of Chesapeake Bay Local Assistance currently includes 15 of the remaining 17 CBLAD staff positions that have the primary responsibility for day-to-day implementation of the Chesapeake Bay Preservation Act Program. The DCBLA division director will report to the DCR Director. The division staff will provide primary staff assistance for the implementation of the Bay Preservation Act and will provide staff technical assistance to affected local governments.

The nine-member Chesapeake Bay Local Assistance Board remains unaffected by the merger. However, primary staff responsibilities have passed to the DCR Director, who along with his office staff and the division staff will serve the Chesapeake Bay Local Assistance Board in carrying out its statutory authorities. The Chesapeake Bay Local Assistance Board becomes the 11th state level citizen board or collegial body served by DCR, including the Virginia Soil and Water Conservation Board, the Board of Conservation and Recreation, the Virginia Land Conservation Foundation, the Statewide Scenic River Advisory Board, the Cave Board, the Chippokes Plantation Farm Foundation, the Breaks Interstate Park Commission, and the Invasive Species Council.

The two agencies are physically located in separate but nearby buildings in the Capitol area in downtown Richmond. In addition, DCR already had staff in the Monroe Tower state office building, where the Chesapeake Bay Local Assistance staff was and continues to be located. Therefore, no physical movement of offices was necessary to effectuate the merger. However, it will be very desirable for staff integration and coordination to pursue co-location of staff whenever the opportunity arises.

#### *Administrative and Financial Staff Efficiencies*

Two administrative and financial staff members of the former CBLAD have been transferred to similar positions within DCR to serve broader agency needs.

In addition, two CBLAD staff with expertise in stormwater engineering have been identified to become part of the urban program staff being assembled within DCR's Division of Soil and Water Conservation to meet the statewide demands of the expanded Virginia Stormwater Management Act passed by the 2004 General Assembly. The former CBLAD staff will retain responsibilities related to the Chesapeake Bay Preservation Act program.

#### *Internal Coordination and Collaboration*

On August 5 and August 20, 2004, Departmental leadership staff from the Divisions of Soil and Water Conservation and Chesapeake Bay Local Assistance met with the DCR Director to determine how, as a result of the merger, the programs of DCR can better coordinate and support each other to result in a greater protection of water quality from nonpoint source pollution. The focus was on the Bay Preservation Act program and other pertinent soil and water conservation programs within DCR.

DCR leadership identified several steps it will take as part of the initial merger plan. Many of these address staffing consolidations in the administrative and stormwater areas and programmatic coordination that will result in greater staffing efficiencies and effectiveness in carrying out the Commonwealth's nonpoint source pollution programs. Some of these actions have already been completed or are in the process of being completed; others are projected to be addressed over the next 6-12 months. These are outlined below:

- As mentioned above, to consolidate administrative and financial functions, two DCBLA staff members have been transferred into DCR's Administration and Finance divisions.
- Two engineering staff members will be combined with DSWC urban stormwater program staff to more efficiently and effectively accomplish the various responsibilities of existing stormwater requirements, as well as those DCR will undertake as a consequence of the new, streamlined State stormwater management program.
- DCR will assure that the compliance evaluation/review process is better-coordinated and conducted regarding local erosion control, stormwater management and Bay Act programs.
- DCR staff will coordinate construction site plan reviews for state and federal projects, as well as requests from local governments for site plan review assistance.
- In addition, the Chesapeake Bay Local Assistance staff will be integrated into DCR's review of state and federal environmental impact statements and environmental assessments.
- DCR staff in the Divisions of Chesapeake Bay Local Assistance and Soil and Water Conservation will improve coordination of nonpoint source program reporting and tracking to meet regulatory requirements, assure local government compliance with regulatory requirements, and provide needed data regarding progress toward meeting Chesapeake Bay water quality goals and commitments, while minimizing any duplicative reporting by various program constituents.
- DCR staff will improve coordination of programs regarding agricultural conservation assessments, development of needed water quality conservation plans, and implementation of nonpoint source best management practices, as well as day-to-day assistance in dealing with agricultural questions and issues, etc.
- DCR will consider ways to find funding from various federal and state sources to provide critical funding assistance, now missing, for localities subject to the Chesapeake Bay Preservation Act.

There appear to be other opportunities to better integrate nonpoint source pollution control planning and implementation efforts within DCR as a consequence of this merger. Those actions will be more carefully considered over the next 18 months.

## **CHANGES REQUIRED IN THE CODE OF VIRGINIA AND REGULATIONS**

On July 1, 2004, the Governor formally authorized the Director of DCR "to perform all duties and to exercise all powers presently assigned to the Executive Director of CBLAD by law." In addition, the Governor appointed the former Executive Director of CBLAD to an at-will position within DCR, where he serves as Assistant Director and Acting Director of the Division of Chesapeake Bay Local Assistance. In order to complete the intent of the merger, the Department is preparing legislation for the

2005 General Assembly session to accomplish the necessary statutory changes.

The Chesapeake Bay Preservation Act (§10.1-2100 et seq., Code of Virginia) will need to be amended. Currently the Act establishes CBLAD as a separate Department. This will need to be changed to assign the program's responsibility to the Director of DCR. More specifically, the definitions of "Department" and "Director" will need to be changed. Counsel from the Attorney General's office has advised that the Preservation Act may remain in §10.1-2100 and does not need to be relocated under some other section of the Code of Virginia pertinent to DCR.

Similar changes will need to be made to the Bay Act Regulations (9 VAC 10-20) and the Board's Public Participation Guidelines (9 VAC 10-10). These regulations will need to be renumbered as 4 VAC references, which apply to DCR regulations.

## BENEFITS OF THE MERGER

Incorporating the responsibilities for the Chesapeake Bay Preservation Act within DCR will strengthen the collaborative support fabric that already existed between the two agencies' programs. The level and type of planning assistance provided to localities by the DCR Division of Chesapeake Bay Local Assistance is unique among state agencies. However, the water quality elements, including urban stormwater and agricultural conservation planning using best management practices, already rely significantly upon DCR statewide programs for implementation in coastal Virginia. The DCR Division of Soil and Water Conservation will continue the management of statewide urban and agricultural programs and the agency's support of soil and water conservation districts. Further coordination and streamlining of reporting, tracking and local program evaluation will become more easily developed under the merger plan.

Additional benefits of the merger should include:

- Maintaining a high level of "Chesapeake Bay Preservation Act" visibility through the establishment of the separate division and retention of the Chesapeake Bay Local Assistance Board.
- Enhancing the Department's stormwater management staff, especially in light of expanded responsibilities given to DCR during the 2004 General Assembly Session.
- Consolidating administrative and fiscal staff and functions into larger units within DCR.
- Creating a collective "synergy" by bringing together key staff, programs and grants involved in related Bay and statewide nonpoint source activities that previously existed in the two separate agencies (CBLAD and DCR).
- Improving non-point source service delivery to local governments through an integrated approach.
- Offering greater opportunity for coordinated, streamlined and comprehensive local program reviews related to compliance with the Bay Act, Erosion and Sediment Control, and Stormwater Management.

- Offering the opportunity to provide more coordinated reviews of government projects and environmental impact reviews relating to non-point source pollution concerns
- Offering the opportunity to provide more coordinated interaction with local soil and water conservation districts and assistance for implementation of statewide agricultural nonpoint source programs.
- Providing coordination of priorities for available state and federal grant programs, allowing for a more effective targeting of these funds to the most critical areas and efforts leading to the greater water quality benefits.
- Improving coordination of education and outreach and customer service efforts.
- Improving efficiencies in use of staff time and travel through elimination of duplicative activities.

## COST SAVINGS ACHIEVED

The Appropriations Act passed by the 2004 General Assembly reduced funding and MEL from CBLAD and transferred it to DCR. Three full-time staff positions were eliminated and \$49,100 from the appropriation originally introduced for CBLAD for FY 2005 was removed.

In addition, for FY2006, the Appropriations Act continues the reduction of 3 FTE and removes \$238,414 from the appropriation originally introduced for CBLAD for FY 2006. This is essentially the amount of funding associated with the three positions that were eliminated. However, the Department is continuing its determination on how the funding reductions affect its ability to fully fund the hiring of a permanent director for the Division of Chesapeake Bay Local Assistance.

It is also important to recognize that over the past few years, appropriations for the Chesapeake Bay Preservation Act Program have been drastically reduced. Governor Gilmore had proposed relatively flat funding for CBLAD in his last budget submission of December 2001, allocating \$2,647,477 for the agency for FY2003 and \$2,650,401 for FY2004. As a consequence of the elimination of the CBLAD grants program in 2002, subsequent budget reductions to address the budget shortfalls of 2002 and 2003, and the funding reductions in the new budget, funding for the program is now \$1,400,121 for FY2005 and \$1,212,684 for FY2006. This amounts to an aggregate funding reduction of \$1,434,793, or approximately a 54% reduction of the appropriation to the agency in FY2002.

While the merger will produce greater efficiencies and effectiveness in carrying out the agency's overall mission related to nonpoint source pollution, little, if any, additional cost savings beyond those included in the Appropriations Act are likely to result. This conclusion is consistent with the Report of the Joint Legislative Audit and Review Commission (JLARC) entitled "Implementation of the Chesapeake Bay Preservation Act" (House Document No. 23, 2003), which evaluated potential consolidation of CBLAD with DCR, and concluded the following: "While some small cost economies . . . may occur through consolidation, it does not appear that these benefits will be large. CBLAD is a small agency. Most of the staff have technical skills, the need for which is not anticipated to diminish in the foreseeable future under the responsibilities given to the State by the Bay Act and under the responsibilities given CBLAD by Bay Act regulations."