

SENATE BILL 729

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2000 Regular Session  
(01r2488)

**ENROLLED BILL**

-- *Economic and Environmental Affairs/Environmental Matters* --

Introduced by **Senators Van Hollen, Hogan, Roesser, Frosh, Pinsky, Forehand,  
and Sfikas**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2

**Potomac River Protection Act**

3 FOR the purpose of requiring the Secretary of the Environment to submit certain  
4 reports to the General Assembly by a certain date; prohibiting the Secretary of  
5 the Environment from issuing certain permits before a certain time except when  
6 certain conditions are met; ~~providing a certain exception~~ certain exceptions to  
7 the prohibition against issuing a permit before a certain time; providing that  
8 this Act does not preempt or prohibit any ordinance, resolution, law, or rule  
9 more stringent than this Act; making provisions of this Act severable; and  
10 generally relating to the waters in the Potomac River basin.

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That:

13 (a) The Secretary of the Environment shall submit the following reports to the  
14 General Assembly in accordance with § 2-1246 of the State Government Article by  
15 July 1, 2002:

1 (1) 2000 Water Demand Forecast and Resource Availability Analysis for  
 2 the Washington Metropolitan Area, prepared by the Interstate Commission on the  
 3 Potomac River Basin;

4 (2) Potomac River Basin-Wide Water Demand Forecast, prepared by the  
 5 Interstate Commission on the Potomac River Basin; and

6 (3) Maryland's Source Water Assessment Program, prepared by the  
 7 Department of the Environment; ~~and~~

8 ~~(4) If Chapter \_\_\_\_\_ (H.B. 64) of the Acts of the General Assembly of 2000~~  
 9 ~~takes effect, the report of the Task Force to Study the Minimum Flow Levels in the~~  
 10 ~~Potomac River.~~

11 (b) The Secretary of the Environment may not issue a permit for the  
 12 construction of a water intake pipe into the Potomac River until 6 months after the  
 13 Secretary of the Environment has submitted the reports required under subsection  
 14 (a) of this section unless:

15 (1) The water intake pipe will meet the following conditions:

16 (1) (i) The new pipe will replace a pipe already in use;

17 (2) (ii) The new pipe cannot be used concurrently with the pipe to be  
 18 replaced;

19 (3) (iii) The new pipe ~~cannot~~ does not have the capacity to withdraw an  
 20 amount of water that exceeds the amount of water authorized to be withdrawn by the  
 21 water appropriation permit by more than 5 million gallons of water per day; and

22 (4) (iv) The new pipe will be placed at least 30 inches below the water  
 23 surface at the Potomac River's historic low flow; or

24 (2) (i) The Secretary determines that the issuance of a permit is in the  
 25 public interest; and

26 (ii) The water intake pipe will meet the following conditions:

27 1. The new pipe will replace a pipe already in use;

28 2. The new pipe cannot be used concurrently with the pipe to  
 29 be replaced;

30 3. The new pipe will be placed at least 30 inches below the  
 31 water surface at the Potomac River's historic low flow;

32 4. The new pipe will not have the capacity to withdraw a  
 33 greater quantity of water than the quantity of water that can be withdrawn by the  
 34 existing intake; and

1                                5.        The new pipe will incorporate a physical component, that  
2 cannot be modified without the consent of the Department of the Environment, that  
3 will limit the capacity of the pipe for maximum daily withdrawal to the maximum  
4 amount authorized by the appropriation permit issued to the owner of the pipe under §  
5 5-502 of the Environment Article.

6        (c)        Subsection (b) of this section does not apply to a person who:

7                (1)        Holds or applies for a permit to construct a water intake pipe or  
8 structure to withdraw water from the Potomac River; and

9                (2)        Returns all or a majority of the water withdrawn to the Potomac  
10 River within 3 miles of the point of withdrawal.

11        SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be  
12 construed to preempt, prevail over, or prohibit adoption of any ordinance, resolution,  
13 law, or rule more stringent than this Act.

14        SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this  
15 Act or the application thereof to any person or circumstance is held invalid for any  
16 reason in a court of competent jurisdiction, the invalidity does not affect other  
17 provisions or any other application of this Act which can be given effect without the  
18 invalid provision or application, and for this purpose the provisions of this Act are  
19 declared severable.

20        SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 June 1, 2000.