

SENATE BILL 837

M1, M3

4r1582
CF HB 910

By: **Senator McKay**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Deep Creek Lake – Lower Lake Levels – Requirement and Impact Study**

3 FOR the purpose of requiring the Water and Science Administration in the Department of
4 the Environment to require Brookfield Power Piney & Deep Creek LLC to lower the
5 level of Deep Creek Lake for a certain period of time during a certain time frame;
6 requiring the Department of Natural Resources or a contractor hired by the
7 Department of Natural Resources to conduct a certain study while the lake level is
8 lowered; requiring each unit of the State that issues, renews, or modifies a permit
9 regarding Deep Creek Lake to consider a certain report when taking certain actions;
10 and generally relating to Deep Creek Lake.

11 BY adding to
12 Article – Natural Resources
13 Section 5–215.2
14 Annotated Code of Maryland
15 (2023 Replacement Volume and 2023 Supplement)

16 Preamble

17 WHEREAS, The freezing of water bodies during cold winter months has been
18 demonstrated to be an effective management tool for controlling the growth of some aquatic
19 vegetation; and

20 WHEREAS, High water flows can move accumulated shallow–water bottom
21 sediments to deeper waters, resulting in a reduced impact to critical recreational and living
22 resource habitats; now, therefore,

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Natural Resources**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-215.2.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "BROOKFIELD" MEANS BROOKFIELD POWER PINEY & DEEP
5 CREEK LLC.

6 (3) "LAKE LEVEL" MEANS THE WATER SURFACE ELEVATION ABOVE
7 THE NORTH AMERICAN VERTICAL DATUM OF 1988.

8 (B) ON OR BEFORE SEPTEMBER 30 EACH YEAR, BEGINNING IN 2024
9 THROUGH 2028, THE WATER AND SCIENCE ADMINISTRATION IN THE DEPARTMENT
10 OF THE ENVIRONMENT SHALL REQUIRE BROOKFIELD TO LOWER THE LAKE LEVEL
11 OF DEEP CREEK LAKE TO A LEVEL NOT GREATER THAN 2,456.5 FEET FOR A PERIOD
12 OF AT LEAST 4 WEEKS BETWEEN NOVEMBER 30 AND FEBRUARY 28, BOTH
13 INCLUSIVE.

14 (C) WHILE THE LAKE LEVEL OF DEEP CREEK LAKE IS LOWERED IN
15 ACCORDANCE WITH THIS SECTION, THE DEPARTMENT, OR A CONTRACTOR HIRED BY
16 THE DEPARTMENT, SHALL CONDUCT A STUDY TO DETERMINE THE IMPACT OF
17 LOWER LAKE LEVELS ON:

18 (1) THE SPREAD AND GROWTH OF AQUATIC INVASIVE PLANT SPECIES
19 AND AQUATIC NUISANCE PLANT SPECIES IN DEEP CREEK LAKE; AND

20 (2) ACCUMULATED SEDIMENT DEPOSITION IN DEEP CREEK LAKE.

21 (D) (1) ON COMPLETION OF EACH STUDY REQUIRED UNDER THIS
22 SECTION, THE DEPARTMENT SHALL:

23 (i) COMPILE A REPORT OF THE FINDINGS OF THE STUDY; AND

24 (ii) ON OR BEFORE JUNE 30 EACH YEAR, BEGINNING IN 2025
25 THROUGH 2029, SUBMIT THE REPORT TO THE DEPARTMENT OF THE ENVIRONMENT
26 AND THE DEEP CREEK LAKE POLICY AND REVIEW BOARD.

27 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION SHALL INCLUDE:

29 (i) A LIST OF THE AQUATIC INVASIVE PLANT SPECIES AND
30 AQUATIC NUISANCE PLANT SPECIES FOUND IN DEEP CREEK LAKE;

1 **(II) THE STATUS AND VARIATION OF AQUATIC INVASIVE PLANT**
2 **SPECIES AND AQUATIC NUISANCE PLANT SPECIES IN DEEP CREEK LAKE;**

3 **(III) AN ANALYSIS OF THE IMPACT OF LOWER LAKE LEVELS ON**
4 **AQUATIC INVASIVE PLANT SPECIES AND AQUATIC NUISANCE PLANT SPECIES IN**
5 **DEEP CREEK LAKE;**

6 **(IV) RECOMMENDATIONS FOR AN AQUATIC VEGETATION**
7 **MANAGEMENT PLAN TO CONTROL THE GROWTH AND SPREAD OF AQUATIC INVASIVE**
8 **PLANT SPECIES AND AQUATIC NUISANCE PLANT SPECIES IN DEEP CREEK LAKE;**
9 **AND**

10 **(V) THE EXTENT OF SHALLOW WATER SEDIMENT EROSION AND**
11 **DEPOSITION IN DEEP CREEK LAKE.**

12 **(E) BEGINNING ON SUBMISSION OF THE INITIAL REPORT UNDER**
13 **SUBSECTION (D)(1) OF THIS SECTION, EACH UNIT OF THE STATE THAT ISSUES,**
14 **RENEWS, OR MODIFIES A PERMIT REGARDING DEEP CREEK LAKE SHALL CONSIDER**
15 **THE MOST RECENT REPORT REQUIRED UNDER THIS SECTION WHEN ISSUING,**
16 **REVIEWING, OR MODIFYING THE PERMIT.**

17 **(F) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AUTHORIZE**
18 **BROOKFIELD TO LOWER THE LAKE LEVEL OF DEEP CREEK LAKE BELOW THE**
19 **LEVELS AUTHORIZED IN ITS PERMIT.**

20 **(G) FUNDING FOR THE STUDIES REQUIRED UNDER THIS SECTION SHALL BE**
21 **PROVIDED FROM:**

22 **(1) THE STATE LAKES PROTECTION AND RESTORATION FUND**
23 **ESTABLISHED UNDER § 8-205 OF THIS ARTICLE;**

24 **(2) THE DEEP CREEK LAKE RECREATION MAINTENANCE AND**
25 **MANAGEMENT FUND ESTABLISHED UNDER § 5-215 OF THIS SUBTITLE; OR**

26 **(3) ANY OTHER APPROPRIATE SOURCE.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2024.