

Unofficial Copy  
H1  
SB 569/95 - EEA

1996 Regular Session  
6lr0665

---

**By: Senators Frosh and Roesser**

Introduced and read first time: January 24, 1996

Assigned to: Economic and Environmental Affairs

---

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Water Appropriation or Use Permits**

3 FOR the purpose of altering certain policy of the State concerning the appropriation or  
4 use of certain waters; altering certain requirements for the issuance of certain  
5 appropriation or use permits; requiring the Department of the Environment to  
6 place certain requirements and conditions on the issuance of certainwater  
7 appropriation permits; defining certain terms; and generally relating to water  
8 appropriation or use permits.

9 BY repealing and reenacting, with amendments,  
10 Article - Environment  
11 Section 5-501(a) and 5-507  
12 Annotated Code of Maryland  
13 (1993 Replacement Volume and 1995 Supplement)

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

16 **Article - Environment**

17 5-501.

18 (a) In order to conserve, protect, and use water resources of the State in  
19 accordance with the best interests of the people of Maryland, it is thepolicy of the State  
20 to control, so far as feasible, appropriation or use of surface waters and groundwaters of  
21 the State. Also, it is State policy to promote public safety and welfare, PROTECT  
22 ADJOINING USERS, PROTECT THE NATURAL RESOURCES OF THE STATE, and control  
23 and supervise, so far as is feasible, construction, reconstruction, andrepair of dams,  
24 reservoirs, and other waterworks in any waters of the State.

25 5-507.

26 (a) (1) IN THIS SUBSECTION, "SUSTAINED YIELD" MEANS THE  
27 AVAILABILITY OF WATER FROM AN AQUIFER MANAGED SO THAT TOTAL  
28 WITHDRAWALS DO NOT EXCEED LONG TERM RECHARGE, THUS ENABLING THE  
29 AQUIFER TO FUNCTION AS AN AQUIFER IN PERPETUITY.

30 (2) Before acting on any permit application, the Department shall weigh all  
31 respective public advantages and disadvantages and make all appropriateinvestigations.

1 (3) (I) If the Department believes from the evidence before the Department  
2 and based upon State water resources policy declared in this subtitle that the applicant's  
3 plans provide greatest feasible utilization of the waters of the State, adequately preserve  
4 public safety, ADEQUATELY PRESERVE THE ADJACENT NATURAL RESOURCES,  
5 PROTECT ADJACENT PROPERTY OWNERS FROM ENVIRONMENTAL DEGRADATION  
6 OF THE EXISTING GROUNDWATER OR SURFACE WATER, and promote the general  
7 public welfare, the Department shall grant the permit to appropriate or use the waters,  
8 construct, reconstruct, or repair the proposed reservoir, dam, or waterway obstruction, or  
9 accomplish any combination of these objectives.

10 (II) If the Department believes from the evidence before the  
11 Department that the proposed appropriation or use of State waters or proposed  
12 construction is inadequate, wasteful, dangerous, impracticable or detrimental to the best  
13 public interest, the Department may reject the application or suggest modifications to the  
14 proposed plans to protect the public welfare and safety.

15 (III) THE DEPARTMENT SHALL REJECT THE APPLICATION IF THE  
16 APPROPRIATION, EITHER BY ITSELF OR IN COMBINATION WITH EXISTING  
17 APPROPRIATIONS, WILL EXCEED THE SUSTAINED YIELD OF THE AQUIFER.

18 (b) (1) In granting any permit to appropriate or use water or construct any  
19 reservoir, dam or waterway obstruction, the Department may include any condition, term,  
20 or reservation concerning the character, amount, means, and manner of the appropriation  
21 or use or method of construction necessary to preserve proper control in the State and  
22 insure the safety and welfare of the people of the State. The Department may determine  
23 and specify what provisions to make, if any, in each permit granted to construct a dam or  
24 other waterwork for passage of fish.

25 (2) Any measuring and reporting of water use required of a permittee by the  
26 Department shall be effective and reasonable under the circumstances.

27 (3) Any regulations concerning measuring and reporting of agricultural  
28 water use or determination of aquifer or stream flow characteristics prior to issuance of a  
29 water appropriation permit for an agricultural water use shall be adopted by the  
30 Department with the advice and consent of the Secretary of Agriculture.

31 (4) (I) IN THIS PARAGRAPH "POTENTIOMETRIC SURFACE" MEANS A  
32 LEVEL TO WHICH WATER WILL RISE IN A TIGHTLY CASED WELL DRILLED INTO A  
33 CONFINED AQUIFER.

34 (II) EXCEPT FOR AN APPLICANT FOR A WATER APPROPRIATION  
35 PERMIT FOR AN AGRICULTURAL WATER USE, IF AN APPLICANT INTENDS TO  
36 APPROPRIATE GROUNDWATER IN UNPRECEDENTED QUANTITIES FOR PURPOSES  
37 NOT COMMON TO A LOCALITY AND THE APPROPRIATION WOULD CAUSE HARM TO  
38 OTHER USERS BY LOWERING THE WATER TABLE OR POTENTIOMETRIC SURFACE  
39 BELOW THE OTHER USERS' WELLS, THE DEPARTMENT SHALL:

40 1. REQUIRE THE APPLICANT TO PERFORM AN  
41 ALTERNATIVE WATER SOURCE ANALYSIS; AND

42 2. WITHIN AN IMPACT AREA DESIGNATED BY THE  
43 DEPARTMENT, CONDITION THE ISSUANCE OF THE PERMIT ON PAYMENT BY THE

3

1 PERMITTEE OF THE COST OF IMPROVING ADVERSELY AFFECTED NEIGHBORING  
2 FACILITIES OR OTHER MITIGATION OF THE IMPACT ON NEARBY USERS.

3           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 1996.