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**By: Senators Frosh and Roesser**

Introduced and read first time: January 24, 1996  
Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 29, 1996

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CHAPTER \_\_\_\_

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 AND TO PROTECT ADJOINING USERS AND PROTECT THE NATURAL  
22 RESOURCES OF THE STATE. Also, it is State policy to promote public safety and welfare,  
23 ~~PROTECT ADJOINING USERS, PROTECT THE NATURAL RESOURCES OF THE STATE,~~

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1 and control and supervise, so far as is feasible, construction, reconstruction, and repair of  
2 dams, reservoirs, and other waterworks in any waters of the State.

3 5-507.

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

8 (2) Before acting on any permit application, the Department shall weigh all  
9 respective public advantages and disadvantages and make all appropriate investigations.

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

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

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

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

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

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

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

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1 (II) EXCEPT FOR AN APPLICANT FOR A WATER APPROPRIATION  
2 PERMIT FOR AN AGRICULTURAL WATER USE, IF AN APPLICANT INTENDS TO  
3 APPROPRIATE GROUNDWATER IN UNPRECEDENTED QUANTITIES FOR PURPOSES  
4 NOT COMMON TO A LOCALITY AND THE APPROPRIATION WOULD CAUSE HARM TO  
5 OTHER USERS BY LOWERING THE WATER TABLE OR POTENTIOMETRIC SURFACE  
6 BELOW THE OTHER USERS' WELLS, THE DEPARTMENT SHALL:

7 1. REQUIRE THE APPLICANT TO PERFORM AN  
8 ALTERNATIVE WATER SOURCE ANALYSIS; AND

9 2. WITHIN AN IMPACT AREA DESIGNATED BY THE  
10 DEPARTMENT, CONDITION THE ISSUANCE OF THE PERMIT ON PAYMENT BY THE  
11 PERMITTEE OF THE COST OF IMPROVING ADVERSELY AFFECTED NEIGHBORING  
12 FACILITIES OR OTHER MITIGATION OF THE IMPACT ON NEARBY USERS.

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