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SB 247/96 - EEA

1997 Regular Session
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By: Senators Frosh and Roesser

Introduced and read first time: January 23, 1997
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 4, 1997

CHAPTER ____

1 AN ACT concerning

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

3 FOR the purpose of altering a 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; providing a certain exception; requiring the
6 Department of the Environment to place certain requirements and conditions on
7 the issuance of certain water appropriation permits; defining certain terms; and
8 generally relating to water 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 (1996 Replacement Volume and 1996 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 the policy 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 and control and supervise, so far as is feasible, construction, reconstruction, and repair of
24 dams, reservoirs, and other waterworks in any waters of the State.

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1 5-507.

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

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

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

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

22 (III) EXCEPT FOR AN APPLICATION FOR DEWATERING TO ALLOW A
23 MINING OPERATION THAT IS SUBJECT TO THE PROVISIONS OF TITLE 15, SUBTITLE 6
24 OF THIS ARTICLE, 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, 1997.