

HOUSE BILL 765

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SB 157/98 - EEA

1999 Regular Session
9r1594
CF 9r0370

By: **Delegates Franchot, Hixson, Heller, Shriver, Billings, Cryor, and
Hubbard**

Introduced and read first time: February 12, 1999

Assigned to: Environmental Matters

A BILL ENTITLED

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
4 or 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 1998 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
20 State to control, so far as feasible, appropriation or use of surface waters and
21 groundwaters of the State AND TO PROTECT ADJOINING USERS AND PROTECT THE
22 NATURAL RESOURCES OF THE STATE FROM UNREASONABLE IMPACTS. Also, it is
23 State policy to promote public safety and [welfare] WELFARE, and control and
24 supervise, so far as is feasible, construction, reconstruction, and repair of dams,
25 reservoirs, and other waterworks in any waters of the State.

1 5-507.

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

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

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

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

23 (III) EXCEPT FOR AN APPLICATION FOR DEWATERING FOR A MINING
24 OPERATION, THE DEPARTMENT MAY NOT ISSUE A PERMIT FOR GROUNDWATER USE
25 IF THE 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,
29 term, or reservation concerning the character, amount, means, and manner of the
30 appropriation or use or method of construction necessary to preserve proper control in
31 the State and insure the safety and welfare of the people of the State. The
32 Department may determine and specify what provisions to make, if any, in each
33 permit granted to construct a dam or other waterwork for passage of fish.

34 (2) Any measuring and reporting of water use required of a permittee by
35 the 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
38 of a 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.

1 (4) (I) IN THIS PARAGRAPH, "POTENTIOMETRIC SURFACE" MEANS A
2 LEVEL TO WHICH WATER WILL RISE IN A TIGHTLY CASED WELL DRILLED INTO A
3 CONFINED AQUIFER.

4 (II) EXCEPT FOR AN APPLICANT FOR A WATER APPROPRIATION
5 PERMIT FOR AN AGRICULTURAL WATER USE, IF AN APPLICANT INTENDS TO
6 APPROPRIATE GROUNDWATER IN UNPRECEDENTED QUANTITIES FOR PURPOSES
7 NOT COMMON TO A LOCALITY AND THE APPROPRIATION WOULD CAUSE HARM TO
8 OTHER USERS BY LOWERING THE WATER TABLE OR POTENTIOMETRIC SURFACE TO
9 A LEVEL WHICH WOULD RENDER OTHER USERS' WELLS INADEQUATE FOR THEIR
10 INTENDED USE, THE DEPARTMENT SHALL:

11 1. REQUIRE THE APPLICANT TO PERFORM AN ALTERNATIVE
12 WATER SOURCE ANALYSIS; AND

13 2. WITHIN AN IMPACT AREA DESIGNATED BY THE
14 DEPARTMENT, CONDITION THE ISSUANCE OF THE PERMIT ON PAYMENT BY THE
15 PERMITTEE OF THE COST OF IMPROVING ADVERSELY AFFECTED NEIGHBORING
16 FACILITIES OR OTHER MITIGATION OF THE IMPACT ON NEARBY USERS.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1999.