

SENATE BILL 788

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2000 Regular Session
(01r2816)

ENROLLED BILL

-- *Economic and Environmental Affairs/Environmental Matters* --

Introduced by **Senator Hafer**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Garrett County - Deep Creek Lake**

3 FOR the purpose of establishing the Deep Creek Lake Policy and Review Board;
4 providing for the membership and operation of the Board; prescribing certain
5 duties of the Board; restricting legislators or their designees who serve on the
6 Board from voting on certain matters; eliminating the Deep Creek Lake
7 Advisory and Review Committee; providing for the establishment of a Deep
8 Creek Lake recreation and land use plan; authorizing the Secretary of the
9 Department of Natural Resources (DNR) to adopt certain regulations relating to
10 Deep Creek Lake; requiring that certain draft regulations and fee modifications
11 be submitted to the Board for its review and consent; modifying certain
12 provisions relating to the Deep Creek Lake Recreation Maintenance and
13 Management Fund; providing for the distribution of certain revenues to the
14 Board of County Commissioners of Garrett County; authorizing applications to
15 DNR for lake and buffer use permits; providing for judicial review of certain
16 permitting decisions; declaring the intent of the General Assembly; requiring the
17 Secretary to provide a certain report on or before a certain date and in a certain

1 *manner; providing for the contents of the report;* and generally relating to the
2 management and regulation of Deep Creek Lake in Garrett County.

3 BY repealing and reenacting, without amendments,
4 Article - Natural Resources
5 Section 5-101(a), (c), (d), and (e)
6 Annotated Code of Maryland
7 (1997 Replacement Volume and 1999 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Natural Resources
10 Section 5-215
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 1999 Supplement)

13 BY repealing
14 Article - Natural Resources
15 Section 5-216
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 1999 Supplement)

18 BY adding to
19 Article - Natural Resources
20 Section 5-215.1 and 5-216
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 1999 Supplement)

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

25 **Article - Natural Resources**

26 5-101.

27 (a) In this title the following words have the meanings indicated.

28 (c) "Department" means Department of Natural Resources.

29 (d) "Person" includes the State, any county, municipal corporation, or other
30 political subdivision of the State, or any of their units, or an individual, receiver,
31 trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or
32 any partnership, firm, association, public or private corporation, or any other entity.

33 (e) "Secretary" means Secretary of Natural Resources.

1 5-215.

2 (a) There is a Deep Creek Lake Recreation Maintenance and Management
3 Fund in the Department for the maintenance and management of THE LAND,
4 recreational [facilities] FACILITIES, and services that are related to Deep Creek Lake
5 in Garrett County.

6 (b) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
7 SUBSECTION, THE Department shall pay all fees collected for boat launching at Deep
8 Creek Lake State Park, and all funds collected from lake and buffer use permits,
9 contracts, grants, and gifts as a result of the Deep Creek Lake management program,
10 into the Deep Creek Lake Recreation Maintenance and Management Fund.

11 (2) AT THE END OF EACH QUARTER OF THE FISCAL YEAR, THE
12 DEPARTMENT SHALL PAY 25% OF THE TOTAL REVENUE COLLECTED DURING THE
13 QUARTER UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE BOARD OF COUNTY
14 COMMISSIONERS OF GARRETT COUNTY.

15 (c) UNLESS THERE IS AN AGREEMENT BETWEEN THE SECRETARY AND THE
16 DEEP CREEK LAKE POLICY AND REVIEW BOARD AS TO A PROPOSED CHANGE, THE
17 FEE FOR ISSUANCE AND PROCESSING OF ANY PERMIT COVERED UNDER
18 SUBSECTION (B) OF THIS SECTION MAY NOT BE CHANGED.

19 (D) (1) Before the Department AND THE DEEP CREEK LAKE POLICY AND
20 REVIEW BOARD may [establish or increase] CHANGE any [fees] FEE for the issuance
21 and processing of any [license or] permit [set forth in] COVERED UNDER subsection
22 (b) of this section, the Secretary shall hold a public hearing in Garrett County.

23 (2) Notice of the public hearing shall be published in two newspapers OF
24 GENERAL CIRCULATION in [the county] GARRETT COUNTY at least 30 days before
25 the hearing.

26 (3) The notice shall include the proposed [fee or increase] CHANGE in
27 the fee and the reason for the fee.

28 (E) (1) A PERSON MAY APPLY TO THE DEPARTMENT FOR A LAKE AND
29 BUFFER USE PERMIT.

30 (2) A PERSON WHO IS AGGRIEVED BY A DECISION OF THE DEPARTMENT
31 TO ISSUE OR DENY A LAKE AND BUFFER USE PERMIT MAY SEEK JUDICIAL REVIEW
32 OF THE DECISION IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
33 GOVERNMENT ARTICLE.

34 5-215.1.

35 (A) THE GENERAL ASSEMBLY DECLARES THAT:

36 (1) DEEP CREEK LAKE AND THE LAND UNDER AND AROUND IT POSSESS
37 UNIQUE AND VALUABLE SCENIC, ECOLOGIC, HISTORIC, RECREATIONAL, FISH,
38 WILDLIFE, AND OTHER NATURAL RESOURCE VALUES; AND

1 (2) A DEEP CREEK LAKE RECREATION AND LAND USE PLAN WILL:

2 (I) PROTECT THE RESOURCES AND NATURAL VALUE OF THE LAKE
3 AND SURROUNDING LAND;

4 (II) PROVIDE FOR THE ONGOING RECREATION, USE, AND
5 ENJOYMENT OF THESE RESOURCES; AND

6 (III) FULFILL VITAL CONSERVATION PURPOSES BY WISE,
7 SUSTAINABLE USE OF THESE RESOURCES.

8 (B) (1) THE SECRETARY AND THE DEEP CREEK LAKE POLICY AND REVIEW
9 BOARD SHALL PREPARE A PLAN THAT PROVIDES FOR THE WISE USE, PROTECTION,
10 AND MANAGEMENT OF THE NATURAL AND RECREATIONAL RESOURCES OF DEEP
11 CREEK LAKE.

12 (2) THE PLAN SHALL:

13 (I) EVALUATE THE LAKE, SHORELINE, AND BUFFER AREA AS A
14 RECREATIONAL, WATER, NATURAL, AND SCENIC RESOURCE, CONSIDERING LAND
15 USE, CARRYING CAPACITY, ZONING, VISITOR ACCESS, RECREATION AREAS,
16 COMMERCIAL AND PRIVATE USE, AND RELATED ACTIVITIES; AND

17 (II) REFLECT ACTIVITIES SUCH AS FISHING, BOATING, DOCKING,
18 HIKING, WATER SPORTS, SCENIC APPRECIATION, NATURAL INTERPRETATION, AND
19 OTHER PROGRAMS WHICH PROVIDE THE PUBLIC WITH OPPORTUNITIES TO
20 APPRECIATE AND ENJOY THE VALUE OF THE LAKE AND BUFFER AREA.

21 (C) THE DEPARTMENT MAY CONSULT WITH THE DEPARTMENT OF THE
22 ENVIRONMENT AND THE DEPARTMENT OF BUSINESS AND ECONOMIC
23 DEVELOPMENT:

24 (1) IN PREPARING THE DEEP CREEK LAKE RECREATION AND LAND USE
25 PLAN; AND

26 (2) ON ANY OTHER MATTER RELATING TO DEEP CREEK LAKE.

27 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY
28 MAY ADOPT REGULATIONS RELATING TO DEEP CREEK LAKE THAT ARE NECESSARY
29 TO:

30 (I) PROTECT THE PUBLIC HEALTH AND SAFETY, NATURAL
31 RESOURCES, AND THE ENVIRONMENT; OR

32 (II) IMPLEMENT THE DEEP CREEK LAKE RECREATION AND LAND
33 USE PLAN.

34 (2) BEFORE THE SECRETARY PROPOSES OR ADOPTS A REGULATION, THE
35 SECRETARY SHALL SUBMIT A DRAFT OF THE REGULATION TO THE DEEP CREEK

1 LAKE POLICY AND REVIEW BOARD FOR ITS REVIEW AND CONSENT IF THE
2 REGULATION RELATES TO:

3 (I) THE CONTENT OR THE ADOPTION AND IMPLEMENTATION OF A
4 DEEP CREEK LAKE RECREATION AND LAND USE PLAN, AS DESCRIBED UNDER
5 SUBSECTIONS (A) AND (B) OF THIS SECTION; OR

6 (II) ANY FEE PROPOSED UNDER § 5-215 OF THIS SUBTITLE.

7 [5-216.

8 (a) There is a Deep Creek Lake Advisory and Review Committee.

9 (b) (1) The Committee consists of:

10 (i) The delegate of the Maryland General Assembly from
11 subdistrict 1A of Legislative District 1 or a designee of the delegate;

12 (ii) The president of the Deep Creek Lake Property Owner's
13 Association or a designee of the president;

14 (iii) The president of the Garrett County Chamber of Commerce, its
15 successor entity, or a designee of the president;

16 (iv) The president of the Maryland Bass Federation or a designee of
17 the president;

18 (v) The chairman of the Garrett County Commissioners or a
19 designee of the chairman; and

20 (vi) Three members appointed by the Garrett County
21 Commissioners in accordance with paragraph (2) of this subsection.

22 (2) Of the three members appointed by the Garrett County
23 Commissioners:

24 (i) One shall be an owner of real property in the Deep Creek
25 Watershed;

26 (ii) One shall be an owner of real property contiguous to the buffer
27 zone surrounding Deep Creek Lake; and

28 (iii) One shall be a member of the general public in Garrett County.

29 (c) (1) The elected officials serve for the duration of their elected terms in
30 office.

31 (2) The appointed members serve concurrently with the elected terms of
32 the Garrett County Commissioners.

1 (d) A member serves without compensation but is entitled to reimbursement
2 for expenses under the Standard State Travel Regulations as provided in the State
3 budget. The expenses shall be paid from the Deep Creek Lake Recreation
4 Maintenance and Management Fund.

5 (e) From among its members, the Committee shall select a Chairman.

6 (f) A majority of the members then serving is a quorum.

7 (g) The Committee shall meet at least four times a year.

8 (h) The Chairman shall determine the times and places of its meetings.

9 (i) The Committee shall review and advise the Secretary on all matters that
10 relate to the Deep Creek Lake Recreation Maintenance and Management Fund and
11 the Deep Creek Lake Management Program.

12 (j) The Committee may review and make recommendations to the Secretary
13 on all budgetary matters that concern the management and maintenance of the lake
14 and buffer area.

15 (k) The Secretary shall submit a budget to the General Assembly for approval.
16 The budget may not exceed the amount available in the maintenance fund.

17 (l) The funds contributed to the Department from the Pennsylvania Electric
18 Company for capital improvements shall be deposited in the Fund and spent in
19 accordance with the approved development plan.]

20 5-216.

21 (A) THERE IS A DEEP CREEK LAKE POLICY AND REVIEW BOARD.

22 (B) (1) THE BOARD CONSISTS OF:

23 (I) FIVE MEMBERS APPOINTED BY THE GOVERNOR IN
24 ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION;

25 (II) THE SENATOR OF THE MARYLAND GENERAL ASSEMBLY WHO
26 REPRESENTS LEGISLATIVE DISTRICT 1 OR THE SENATOR'S DESIGNEE;

27 (III) THE DELEGATE OF THE MARYLAND GENERAL ASSEMBLY WHO
28 REPRESENTS DELEGATE DISTRICT 1A OF LEGISLATIVE DISTRICT 1 OR THE
29 DELEGATE'S DESIGNEE;

30 (IV) A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS OF
31 GARRETT COUNTY, SELECTED BY THE BOARD OF COUNTY COMMISSIONERS, OR AN
32 ALTERNATIVE COUNTY COMMISSIONER, SERVING AS THE MEMBER'S DESIGNEE;

33 (V) THE PRESIDENT OF THE DEEP CREEK LAKE PROPERTY
34 OWNER'S ASSOCIATION OR THE PRESIDENT'S DESIGNEE; AND

1 (VI) THE CHAIRMAN OF THE GARRETT COUNTY CHAMBER OF
2 COMMERCE OR THE CHAIRMAN'S DESIGNEE.

3 (2) OF THE FIVE MEMBERS APPOINTED UNDER PARAGRAPH (1)(I) OF
4 THIS SUBSECTION:

5 (I) TWO SHALL BE RESIDENTS OF GARRETT COUNTY;

6 (II) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND BASS
7 FEDERATION AND A RESIDENT OF MARYLAND; AND

8 (III) TWO SHALL BE MEMBERS AT LARGE.

9 (3) (I) EACH MEMBER OF THE BOARD APPOINTED UNDER PARAGRAPH
10 (1)(I) OF THIS SUBSECTION SERVES FOR A TERM CONCURRENT WITH THE TERM OF
11 THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY.

12 (II) AT THE END OF A TERM, THE MEMBER CONTINUES TO SERVE
13 UNTIL A SUCCESSOR IS APPOINTED.

14 (III) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
15 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

16 (4) EACH MEMBER OF THE BOARD OR DESIGNEE SERVING UNDER
17 PARAGRAPH (1)(II) THROUGH (VI) OF THIS SECTION SERVES FOR A TERM
18 CONCURRENT WITH THE MEMBER'S OFFICE OR POSITION.

19 (C) FROM AMONG THE MEMBERS APPOINTED UNDER SUBSECTION (B)(1)(I) OF
20 THIS SECTION, THE GOVERNOR SHALL NAME A CHAIRMAN OF THE BOARD.

21 (D) (1) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
22 QUORUM.

23 (2) A MEMBER OF THE MARYLAND GENERAL ASSEMBLY, OR A DESIGNEE
24 OF THE MEMBER, SHALL ABSTAIN FROM VOTING ON:

25 (I) A PROPOSED FEE UNDER § 5-215(C) OF THIS SUBTITLE; OR

26 (II) ANY OTHER REGULATION SUBMITTED TO THE BOARD UNDER §
27 5-215.1(D)(2) OF THIS SUBTITLE.

28 (E) (1) THE BOARD SHALL MEET AT LEAST FOUR TIMES A YEAR.

29 (2) THE CHAIRMAN SHALL DETERMINE THE TIME AND PLACE OF THE
30 MEETINGS OF THE BOARD.

31 (3) EACH MEETING SHALL BE CONDUCTED IN GARRETT COUNTY.

32 (F) (1) A MEMBER OF THE BOARD:

33 (I) MAY NOT RECEIVE COMPENSATION; BUT

1 (II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 (2) EXPENSES SHALL BE PAID FROM THE DEEP CREEK LAKE
4 RECREATION MAINTENANCE AND MANAGEMENT FUND.

5 (G) (1) THE BOARD SHALL REVIEW AND ADVISE THE SECRETARY ON
6 MATTERS THAT RELATE TO THE DEEP CREEK LAKE RECREATION MAINTENANCE
7 AND MANAGEMENT FUND AND THE DEEP CREEK LAKE MANAGEMENT PROGRAM.

8 (2) THE BOARD MAY REVIEW AND MAKE RECOMMENDATIONS TO THE
9 SECRETARY ON BUDGETARY MATTERS THAT CONCERN THE MANAGEMENT AND
10 MAINTENANCE OF THE LAKE AND BUFFER AREA.

11 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
12 General Assembly that, within 1 year after the effective date of this Act, the Secretary
13 of Natural Resources, with consent of the Deep Creek Lake Policy and Review Board,
14 shall issue the Deep Creek Lake recreation and land use plan required under §
15 5-215.1 of the Natural Resources Article, as enacted by Section 1 of this Act, in the
16 form of a proposed regulation.

17 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
18 2002, the Department of Natural Resources, in consultation with the Deep Creek Lake
19 Policy and Review Board, shall report to the Senate Economic and Environmental
20 Affairs Committee, the House Environmental Matters Committee, the Governor and,
21 subject to § 2-1246 of the State Government Article, the General Assembly on:

22 (1) the implementation of the plan prepared under this Act;

23 (2) regulations adopted under this Act;

24 (3) revenues to and expenditures from the Deep Creek Lake Recreation
25 Maintenance and Management Fund; and

26 (4) any recommendations for the Deep Creek Lake Management Program
27 created in this Act.

28 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect June 1, 2000.