

SENATE BILL 788

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2000 Regular Session
0lr2816
CF 0lr2657

By: **Senator Hafer**

Introduced and read first time: February 10, 2000

Assigned to: Rules

A BILL ENTITLED

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; and
17 generally relating to the management and regulation of Deep Creek Lake in
18 Garrett County.

19 BY repealing and reenacting, without amendments,
20 Article - Natural Resources
21 Section 5-101(a), (c), (d), and (e)
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Natural Resources
26 Section 5-215
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 1999 Supplement)

29 BY repealing
30 Article - Natural Resources
31 Section 5-216

1 Annotated Code of Maryland
2 (1997 Replacement Volume and 1999 Supplement)

3 BY adding to
4 Article - Natural Resources
5 Section 5-215.1 and 5-216
6 Annotated Code of Maryland
7 (1997 Replacement Volume and 1999 Supplement)

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

10 **Article - Natural Resources**

11 5-101.

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

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

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

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

19 5-215.

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

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

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

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

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

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

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

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

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

16 5-215.1.

17 (A) THE GENERAL ASSEMBLY DECLARES THAT:

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

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

22 (I) PROTECT THE RESOURCES AND NATURAL VALUE OF THE LAKE
23 AND SURROUNDING LAND;

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

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

28 (B) (1) THE SECRETARY AND THE DEEP CREEK LAKE POLICY AND REVIEW
29 BOARD SHALL PREPARE A PLAN THAT PROVIDES FOR THE WISE USE, PROTECTION,
30 AND MANAGEMENT OF THE NATURAL AND RECREATIONAL RESOURCES OF DEEP
31 CREEK LAKE.

32 (2) THE PLAN SHALL:

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

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

5 (C) THE DEPARTMENT MAY CONSULT WITH THE DEPARTMENT OF THE
6 ENVIRONMENT AND THE DEPARTMENT OF BUSINESS AND ECONOMIC
7 DEVELOPMENT:

8 (1) IN PREPARING THE DEEP CREEK LAKE RECREATION AND LAND USE
9 PLAN; AND

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

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

14 (I) PROTECT THE PUBLIC HEALTH AND SAFETY, NATURAL
15 RESOURCES, AND THE ENVIRONMENT; OR

16 (II) IMPLEMENT THE DEEP CREEK LAKE RECREATION AND LAND
17 USE PLAN.

18 (2) BEFORE THE SECRETARY PROPOSES A REGULATION, THE
19 SECRETARY SHALL SUBMIT A DRAFT OF THE REGULATION TO THE DEEP CREEK
20 LAKE POLICY AND REVIEW BOARD FOR ITS REVIEW AND CONSENT IF THE
21 REGULATION RELATES TO:

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

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

26 [5-216.

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

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

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

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

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

1 (iv) The president of the Maryland Bass Federation or a designee of
2 the president;

3 (v) The chairman of the Garrett County Commissioners or a
4 designee of the chairman; and

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

7 (2) Of the three members appointed by the Garrett County
8 Commissioners:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (I) The funds contributed to the Department from the Pennsylvania Electric
2 Company for capital improvements shall be deposited in the Fund and spent in
3 accordance with the approved development plan.]

4 5-216.

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

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

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

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

11 (III) THE DELEGATE OF THE MARYLAND GENERAL ASSEMBLY WHO
12 REPRESENTS DELEGATE DISTRICT 1A OF LEGISLATIVE DISTRICT 1 OR THE
13 DELEGATE'S DESIGNEE;

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

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

19 (VI) THE CHAIRMAN OF THE GARRETT COUNTY CHAMBER OF
20 COMMERCE OR THE CHAIRMAN'S DESIGNEE.

21 (2) OF THE FIVE MEMBERS APPOINTED UNDER PARAGRAPH (1)(I) OF
22 THIS SUBSECTION:

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

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

26 (III) TWO SHALL BE MEMBERS AT LARGE.

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

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

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

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

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

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

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

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

11 (II) ANY OTHER REGULATION SUBMITTED TO THE BOARD UNDER §
12 5-215.1(D)(2) OF THIS SUBTITLE.

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

14 (2) THE CHAIRMAN SHALL DETERMINE THE TIME AND PLACE OF THE
15 MEETINGS OF THE BOARD.

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

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

18 (I) MAY NOT RECEIVE COMPENSATION; BUT

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

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

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
30 General Assembly that, within 1 year after the effective date of this Act, the Secretary
31 of Natural Resources, with consent of the Deep Creek Lake Policy and Review Board,
32 shall issue the Deep Creek Lake recreation and land use plan required under §
33 5-215.1 of the Natural Resources Article, as enacted by Section 1 of this Act, in the
34 form of a proposed regulation.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2000.