

SENATE BILL 788

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2000 Regular Session  
0lr2816  
CF 0lr2657

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By: **Senator Hafer**

Introduced and read first time: February 10, 2000

Assigned to: Rules

Re-referred to: Economic and Environmental Affairs, February 18, 2000

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2000

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

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**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,

1 Article - Natural Resources  
2 Section 5-215  
3 Annotated Code of Maryland  
4 (1997 Replacement Volume and 1999 Supplement)

5 BY repealing  
6 Article - Natural Resources  
7 Section 5-216  
8 Annotated Code of Maryland  
9 (1997 Replacement Volume and 1999 Supplement)

10 BY adding to  
11 Article - Natural Resources  
12 Section 5-215.1 and 5-216  
13 Annotated Code of Maryland  
14 (1997 Replacement Volume and 1999 Supplement)

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

17 **Article - Natural Resources**

18 5-101.

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

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

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

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

26 5-215.

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

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

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

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

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

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

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

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

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

24 5-215.1.

25 (A) THE GENERAL ASSEMBLY DECLARES THAT:

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

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

30 (I) PROTECT THE RESOURCES AND NATURAL VALUE OF THE LAKE  
31 AND SURROUNDING LAND;

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

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

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

5 (2) THE PLAN SHALL:

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

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

14 (C) THE DEPARTMENT MAY CONSULT WITH THE DEPARTMENT OF THE  
15 ENVIRONMENT AND THE DEPARTMENT OF BUSINESS AND ECONOMIC  
16 DEVELOPMENT:

17 (1) IN PREPARING THE DEEP CREEK LAKE RECREATION AND LAND USE  
18 PLAN; AND

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

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

23 (I) PROTECT THE PUBLIC HEALTH AND SAFETY, NATURAL  
24 RESOURCES, AND THE ENVIRONMENT; OR

25 (II) IMPLEMENT THE DEEP CREEK LAKE RECREATION AND LAND  
26 USE PLAN.

27 (2) BEFORE THE SECRETARY PROPOSES OR ADOPTS A REGULATION, THE  
28 SECRETARY SHALL SUBMIT A DRAFT OF THE REGULATION TO THE DEEP CREEK  
29 LAKE POLICY AND REVIEW BOARD FOR ITS REVIEW AND CONSENT IF THE  
30 REGULATION RELATES TO:

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

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

35 [5-216.

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

- 1 (b) (1) The Committee consists of:
- 2 (i) The delegate of the Maryland General Assembly from  
3 subdistrict 1A of Legislative District 1 or a designee of the delegate;
- 4 (ii) The president of the Deep Creek Lake Property Owner's  
5 Association or a designee of the president;
- 6 (iii) The president of the Garrett County Chamber of Commerce, its  
7 successor entity, or a designee of the president;
- 8 (iv) The president of the Maryland Bass Federation or a designee of  
9 the president;
- 10 (v) The chairman of the Garrett County Commissioners or a  
11 designee of the chairman; and
- 12 (vi) Three members appointed by the Garrett County  
13 Commissioners in accordance with paragraph (2) of this subsection.
- 14 (2) Of the three members appointed by the Garrett County  
15 Commissioners:
- 16 (i) One shall be an owner of real property in the Deep Creek  
17 Watershed;
- 18 (ii) One shall be an owner of real property contiguous to the buffer  
19 zone surrounding Deep Creek Lake; and
- 20 (iii) One shall be a member of the general public in Garrett County.
- 21 (c) (1) The elected officials serve for the duration of their elected terms in  
22 office.
- 23 (2) The appointed members serve concurrently with the elected terms of  
24 the Garrett County Commissioners.
- 25 (d) A member serves without compensation but is entitled to reimbursement  
26 for expenses under the Standard State Travel Regulations as provided in the State  
27 budget. The expenses shall be paid from the Deep Creek Lake Recreation  
28 Maintenance and Management Fund.
- 29 (e) From among its members, the Committee shall select a Chairman.
- 30 (f) A majority of the members then serving is a quorum.
- 31 (g) The Committee shall meet at least four times a year.
- 32 (h) The Chairman shall determine the times and places of its meetings.

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

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

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

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

12 5-216.

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

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

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

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

19 (III) THE DELEGATE OF THE MARYLAND GENERAL ASSEMBLY WHO  
20 REPRESENTS DELEGATE DISTRICT 1A OF LEGISLATIVE DISTRICT 1 OR THE  
21 DELEGATE'S DESIGNEE;

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

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

27 (VI) THE CHAIRMAN OF THE GARRETT COUNTY CHAMBER OF  
28 COMMERCE OR THE CHAIRMAN'S DESIGNEE.

29 (2) OF THE FIVE MEMBERS APPOINTED UNDER PARAGRAPH (1)(I) OF  
30 THIS SUBSECTION:

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

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

34 (III) TWO SHALL BE MEMBERS AT LARGE.

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

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

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

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

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

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

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

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

18 (II) ANY OTHER REGULATION SUBMITTED TO THE BOARD UNDER §  
19 5-215.1(D)(2) OF THIS SUBTITLE.

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

21 (2) THE CHAIRMAN SHALL DETERMINE THE TIME AND PLACE OF THE  
22 MEETINGS OF THE BOARD.

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

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

25 (I) MAY NOT RECEIVE COMPENSATION; BUT

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

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

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

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

4       SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
5 General Assembly that, within 1 year after the effective date of this Act, the Secretary  
6 of Natural Resources, with consent of the Deep Creek Lake Policy and Review Board,  
7 shall issue the Deep Creek Lake recreation and land use plan required under §  
8 5-215.1 of the Natural Resources Article, as enacted by Section 1 of this Act, in the  
9 form of a proposed regulation.

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