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HOUSE BILL NO. 772

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact §§ 62.1-266 and 62.1-267 of the Code of Virginia, relating to ground water withdrawal permit; 15-year term; permit fee.

Patron—Jones, S.C.

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That §§ 62.1-266 and 62.1-267 of the Code of Virginia are amended and reenacted as follows:****§ 62.1-266. Ground water withdrawal permits.**

A. The Board may issue any ground water withdrawal permit upon terms, conditions, and limitations necessary for the protection of the public welfare, safety, and health.

B. Applications for ground water withdrawal permits shall be in a form prescribed by the Board and shall contain such information, consistent with this chapter, as the Board deems necessary.

C. All ground water withdrawal permits issued by the Board under this chapter shall have a fixed term not to exceed ~~ten~~ 15 years. The term of a ground water withdrawal permit issued by the Board shall not be extended by modification beyond the maximum duration, and the permit shall expire at the end of the term unless a complete application for a new permit has been filed in a timely manner as required by the regulations of the Board, and the Board is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit. ~~Any permit to withdraw ground water issued by the Board on or after July 1, 1991, and prior to July 1, 1992, shall expire ten years after the date of its issuance.~~

D. Renewed ground water withdrawal permits shall be for a withdrawal amount that includes such savings as can be demonstrated to have been achieved through water conservation, provided that a beneficial use of the permitted ground water can be demonstrated for the following permit term.

E. Any permit issued by the Board under this chapter may, after notice and opportunity for a hearing, be amended or revoked on any of the following grounds or for good cause as may be provided by the regulations of the Board:

1. The permittee has violated any regulation or order of the Board pertaining to ground water, any condition of a ground water withdrawal permit, any provision of this chapter, or any order of a court, where such violation presents a hazard or potential hazard to human health or the environment or is representative of a pattern of serious or repeated violations ~~which that~~, in the opinion of the Board, demonstrates the permittee's disregard for or inability to comply with applicable laws, regulations, or requirements;

2. The permittee has failed to disclose fully all relevant material facts or has misrepresented a material fact in applying for a permit, or in any other report or document required under this chapter or under the ground water withdrawal regulations of the Board;

3. The activity for which the permit was issued endangers human health or the environment and can be regulated to acceptable levels by amendment or revocation of the permit; or

4. There exists a material change in the basis on which the permit was issued that requires either a temporary or a permanent reduction or elimination of the withdrawal controlled by the permit necessary to protect human health or the environment.

F. No application for a ground water withdrawal permit shall be considered complete unless the applicant has provided the Executive Director of the Board with notification from the governing body of the ~~county, city or town~~ locality in which the withdrawal is to occur that the location and operation of the withdrawing facility is in compliance with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The provisions of this subsection shall not apply to any applicant exempt from compliance under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

G. A ground water withdrawal permit shall authorize withdrawal of a specific amount of ground water through a single well or system of wells, including a backup well or wells, or such other means as the withdrawer specifies.

§ 62.1-267. Issuance of special exceptions.

A. The Board may issue ~~a special exceptions~~ *exception* to allow the withdrawal of ground water in ~~cases the case of an unusual situations where situation in which~~ requiring the user to obtain a ground water withdrawal permit would be contrary to the intended purpose of the Act.

B. In reviewing an application for a special exception, the Board may consider the amount and

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59 duration of the proposed withdrawal, the beneficial use intended for the ground water, the return of the
60 ground water to the aquifer, and the effect of the withdrawal on human health and the environment. Any
61 person requesting a special exception shall submit an application to the Board containing such
62 information as the Board shall require by regulation adopted pursuant to this chapter.

63 C. Any special exception issued by the Board shall state the terms pursuant to which the applicant
64 may withdraw ground water, including the amount of ground water that may be withdrawn in any
65 period and the duration of the special exception. No special exception shall be issued for a term
66 exceeding ~~ten~~ 15 years.

67 D. A violation of any term or provision of a special exception shall subject the holder thereof to the
68 same penalties and enforcement procedures as would apply to a violation of a ground water withdrawal
69 permit.

70 E. The Board shall have the power to amend or revoke any special exception after notice and
71 opportunity for hearing on the grounds set forth in subsection D of § 62.1-266 for amendment or
72 revocation of a ground water withdrawal permit.

73 **2. That the State Water Control Board shall, by a regulation effective January 1, 2019, raise from**
74 **\$6,000 to \$9,000 the permit fee applicable to new or reissued individual ground water withdrawal**
75 **permits or certificates. The adoption of such regulation shall be exempt from the requirements of**
76 **Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of**
77 **Virginia).**