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SENATE BILL NO. 372

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources)

on February 7, 1994)

(Patron Prior to Substitute—Senator Walker)

A BILL to amend and reenact §§ 62.1-260 and 62.1-263 of the Code of Virginia, relating to the Ground Water Management Act of 1992.

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-260 and 62.1-263 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-260. Permits for existing ground water withdrawals in existing ground water management areas.

A. Persons holding a certificate of ground water right or a permit to withdraw ground water issued prior to July 1, 1991, in the Eastern Virginia or Eastern Shore Groundwater Management Areas and currently withdrawing ground water pursuant to said certificate or permit shall file an application for a ground water withdrawal permit on or before December 31, 1992, in order to obtain a permit for withdrawals. The Board shall issue ground water withdrawal permits for the total amount of ground water withdrawn during any consecutive twelve-month period between July 1, 1987, and June 30, 1992, together with such savings as can be demonstrated to have been achieved through water conservation; however, with respect to a political subdivision, an authority serving a political subdivision or a community waterworks regulated by the Department of Health, the permit shall be issued for the total amount of ground water withdrawn during any consecutive twelve-month period between July 1, 1980, and June 30, 1992, together with such savings as can be demonstrated to have been achieved through water conservation.

B. Persons holding a certificate of ground water right issued on or after July 1, 1991, and prior to July 1, 1992, in the Eastern Virginia or Eastern Shore Groundwater Management Areas and currently withdrawing ground water pursuant to the certificate shall file an application for a ground water withdrawal permit on or before December 31, 1993, in order to obtain a permit for withdrawals. The Board shall issue ground water withdrawal permits for the total amount of ground water withdrawn during any consecutive twelve-month period between July 1, 1988, and June 30, 1993, together with such savings as can be demonstrated to have been achieved through water conservation.

C. Persons holding a permit to withdraw ground water issued on or after July 1, 1991, and prior to July 1, 1992, in the Eastern Virginia or Eastern Shore Groundwater Management Areas shall not be required to apply for a ground water withdrawal permit until the expiration of the term of the permit to withdraw ground water as provided in subsection C of § 62.1-266, and may withdraw ground water pursuant to the terms and conditions of the permit to withdraw ground water. Such persons may apply for a ground water withdrawal permit allowing greater withdrawals of ground water than are allowed under an existing permit, and the Board in its discretion may issue a permit for such greater withdrawals, upon consideration of the factors set forth in § 62.1-263.

D. Persons holding a certificate of ground water right issued prior to July 1, 1992, or a permit to withdraw ground water issued prior to July 1, 1991, in the Eastern Virginia or Eastern Shore Groundwater Management Areas, who have not withdrawn ground water prior to July 1, 1992, may initiate a withdrawal on or after July 1, 1992, pursuant to the terms and conditions of the certificate or permit. The persons shall file an application for a ground water withdrawal permit on or before December 31, 1995, and may continue withdrawing ground water under the terms and conditions of their certificate or permit until the required ground water withdrawal permit application is acted on by the Board, provided that the ground water withdrawal permit application is filed on or before December 31, 1995. The Board shall issue a ground water withdrawal permit for the total amount of ground water withdrawn and applied to a beneficial use during any consecutive twelve-month period between July 1, 1992, and June 30, 1995, together with (i) such savings as can be demonstrated to have been achieved through water conservation and (ii) such amount as the Board in its discretion deems appropriate upon consideration of the factors set forth in § 62.1-263. This subsection shall not apply to a political subdivision, or an authority serving a political subdivision, holding a permit or certificate for a public water supply well for supplemental water during drought conditions, which shall apply for a ground water withdrawal permit as provided in § 62.1-265.

E. Persons withdrawing ground water for agricultural or livestock watering purposes in the Eastern Virginia or Eastern Shore Groundwater Management Areas on or before July 1, 1992, shall file an application for a ground water withdrawal permit on or before December 31, 1993, in order to obtain a permit for withdrawals. The Board shall issue ground water withdrawal permits for the total amount of

59 ground water withdrawn during any consecutive twelve-month period between July 1, 1983 and June 30,
60 1993, together with such savings as can be demonstrated to have been achieved through water
61 conservation.

62 F. Persons withdrawing ground water for agricultural or livestock watering purposes, or pursuant to
63 certificates of ground water right or permits to withdraw ground water issued prior to July 1, 1992, in
64 the Eastern Virginia or Eastern Shore Groundwater Management Areas, may continue such withdrawal
65 until the required permit application is acted on by the Board, provided that the permit application is
66 filed by the appropriate deadline.

67 G. Persons applying for a ground water withdrawal permit may request that they be permitted to
68 withdraw more ground water than the amount to which they may be entitled based on their historic
69 usage and water conservation as set forth in this section. The Board in its discretion may issue a permit
70 for a greater amount than that which is based on historic usage and water conservation, upon
71 consideration of the factors set forth in § 62.1-263.

72 H. Failure by any person covered by the provisions of subsection A, B, D or E to file an application
73 for a ground water withdrawal permit prior to the expiration of the applicable period creates a
74 presumption that any claim to withdraw ground water based on history of usage has been abandoned. In
75 reviewing any application for a ground water withdrawal permit subsequently made by such a person,
76 the Board shall consider the factors set forth in § 62.1-263.

77 § 62.1-263. Criteria for issuance of permits.

78 When reviewing an application for a permit to withdraw ground water, or an amendment to a permit,
79 the Board may consider the nature of the proposed beneficial use, the proposed use of alternate or
80 innovative approaches such as aquifer storage and recovery systems and surface and ground water
81 conjunctive uses, climatic cycles, unique requirements for nuclear power stations, economic cycles,
82 population projections, the status of land use and other necessary approvals, and the adoption and
83 implementation of the applicant's water conservation and management plan. In no case shall a permit be
84 issued for more ground water than can be applied to the proposed beneficial use.

85 When proposed uses of ground water are in conflict or when available supplies of ground water are
86 insufficient for all who desire to use them, preference shall be given to uses for human consumption,
87 over all others.

88 In evaluating permit applications, the Board shall ensure that the maximum possible safe supply of
89 ground water will be preserved and protected for all other beneficial uses.

90 *In evaluating the available ground water with respect to permit applications for new or expanded*
91 *withdrawals in the Eastern Virginia or Eastern Shore Groundwater Management Areas, the Board shall*
92 *use the average of the actual historical ground water usage from the inception of the ground water*
93 *withdrawals of a political subdivision or authority operating a ground water and surface water*
94 *conjunctive use system and shall not use the total permit capacity of such system in determining such*
95 *availability.*