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SENATE BILL NO. 1149

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact § 62.1-44.38 of the Code of Virginia, relating to plans and programs; drought evaluation and response plans; Potomac River.

Patron—Marsden

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.38 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.38. Plans and programs; registration of certain data by water users; advisory committees; committee membership for federal, state, and local agencies; water supply planning assistance.

A. The Board shall prepare plans and programs for the management of the water resources of the Commonwealth in such a manner as to encourage, promote, and secure the maximum beneficial use and control thereof. These plans and programs shall be prepared for each major river basin of the Commonwealth, and appropriate subbasins therein, including specifically the Potomac-Shenandoah River Basin, the Rappahannock River Basin, the York River Basin, the James River Basin, the Chowan River Basin, the Roanoke River Basin, the New River Basin, and the Tennessee-Big Sandy River Basin, and for those areas in the Tidewater and elsewhere in the Commonwealth not within these major river basins. Reports for each basin shall be published by the Board.

B. 1. In preparing river basin plan and program reports enumerated in subsection A, the Board shall (i) estimate current water withdrawals and use for agriculture, industry, domestic use, and other significant categories of water users; (ii) project water withdrawals and use by agriculture, industry, domestic use, and other significant categories of water users; (iii) estimate, for each major river and stream, the minimum instream flows necessary during drought conditions to maintain water quality and avoid permanent damage to aquatic life in streams, bays, and estuaries; (iv) evaluate, to the extent practicable, the ability of existing subsurface and surface waters to meet current and future water uses, including minimum instream flows, during drought conditions; (v) evaluate, in cooperation with the Virginia Department of Health and local water supply managers, the current and future capability of public water systems to provide adequate quantity and quality of water; (vi) estimate, using a data-driven method that includes multiple reasonable assumptions about supply and demand over varying time frames, the risk that each locality and region will experience water supply shortfalls; and (vii) evaluate hydrologic, environmental, economic, social, legal, jurisdictional, and other aspects of each alternative management strategy identified.

2. The Board shall direct the Department of Environmental Quality (the Department) in its facilitation of regional water planning efforts. The Department shall (i) ensure that localities coordinate sufficiently in the development of regional water plans; (ii) provide planning, policy, and technical assistance to each regional planning area, differentiated according to each area's water supply challenges, existing resources, and other factors; and (iii) ensure that each regional plan clearly identifies the region's water supply risks and proposes strategies to address those risks.

3. When preparing drought evaluation and response plans pursuant to subdivision 1, the Board shall recognize the service areas for water supply utilities in the Commonwealth that use the Potomac River as a water supply source as a distinct drought evaluation region. Such plans shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions, and messages for the Potomac River drought evaluation region.

C. The Board may, by regulation, require each water user withdrawing surface or subsurface water or both during each year to register, by a date to be established by the Board, water withdrawal and use data for the previous year including the estimated average daily withdrawal, maximum daily withdrawal, sources of water withdrawn, and volume of wastewater discharge, provided that the withdrawal exceeds one million gallons in any single month for use for crop irrigation, or that the daily average during any single month exceeds 10,000 gallons per day for any other user. Location data shall be provided by each user in a coordinate system specified by the Board.

D. The Board shall establish advisory committees to assist it in the formulation of such plans or programs and in formulating recommendations called for in subsection E. In this connection, the Board may include committee membership for branches or agencies of the federal government, branches or

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59 agencies of the Commonwealth, branches or agencies of the government of any state in a river basin
60 located within that state and Virginia, the political subdivisions of the Commonwealth, and all persons
61 and corporations interested in or directly affected by any proposed or existing plan or program.

62 E. The Board shall prepare plans or programs and shall include in reports prepared under subsection
63 A recommended actions to be considered by the General Assembly, the agencies of the Commonwealth
64 and local political subdivisions, the agencies of the federal government, or any other persons that the
65 Board may deem necessary or desirable for the accomplishment of plans or programs prepared under
66 subsection B.

67 F. In addition to the preparation of plans called for in subsection A, the Board, upon written request
68 of a political subdivision of the Commonwealth, shall provide water supply planning assistance to such
69 political subdivision, including assistance in preparing drought management strategies, water
70 conservation programs, evaluation of alternative water sources, state enabling legislation to facilitate a
71 specific situation, applications for federal grants or permits, or other such planning activities to facilitate
72 intergovernmental cooperation and coordination.