

**REPORT OF THE
STATE WATER STUDY
COMMISSION
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 24

**COMMONWEALTH OF VIRGINIA
RICHMOND**

1982

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Charles J. Colgan
J. Paul Council, Jr.
James H. Dillard, II
Louis L. Guy, Jr.
Glenn B. McClanan
Wiley F. Mitchell, Jr.
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Stanley C. Walker
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**Report of the
State Water Study Commission
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1982**

To: Honorable Charles S. Robb, Governor of Virginia
and
The General Assembly of Virginia

I. Introduction

The State Water Study Commission was continued in 1981 pursuant to Senate Joint Resolution No. 152. The membership of the Commission, expanded in 1981, was as follows: Delegates Lewis W. Parker, Jr., L. Ray Ashworth, Gerald L. Baliles, J. Paul Councill, Jr., James H. Dillard, II, Glenn B. McClanan, Owen B. Pickett, and Clifton A. Woodrum; Senators Charles J. Colgan, Howard P. Anderson, Wiley F. Mitchell, Jr., William T. Parker, and Stanley C. Walker; and citizen members Louis L. Guy, Jr., Robert R. Peters, J. Lewis Rawls, Jr., and George W. Williams. George M. Cornell continued to serve ex officio.

In January, 1982, L. Ray Ashworth and Gerald L. Baliles left the Commission, and Delegate James B. Murray joined it.

Lewis W. Parker, Jr., and Charles J. Colgan were chosen chairman and vice chairman, respectively, at the Commission's initial 1981 meeting.

II. 1981 Activities and Deliberations

In 1977, the General Assembly first established the State Water Study Commission. At that time the Commission was asked to study water supply and allocation problems in northern and southeastern Virginia and to suggest ways to alleviate them. The Commission spent several years in intense study, reviewing groundwater availability, state water law, and water statutes of other states.

In 1981, it recommended comprehensive legislation to the General Assembly to require the State Water Control Board to gather information on water withdrawal and use in the State. This legislation also charged the Board with the development of plans and programs for the management of the state's water resources. These changes were needed, the Commission felt, in order to develop long-term solutions to the state's water supply problems. More significant changes were postponed until a later date to allow the Commission time to give such ideas further study.

During 1981, the Commission gave careful consideration to statutory revisions which proposed to solve some water supply problems. Subcommittees were established to study (1) the southeastern water supply problem and (2) the regulation and licensing of those who drill water wells.

The first of these Subcommittees began its work by considering a proposal prepared by Robert R. Peters entitled "A Proposed Plan for Regionalization of Southeastern Virginia's Water Resources." This plan, which Mr. Peters said was meant primarily to stimulate discussion, included these provisions:

1. All communities would merge their water utilities.
2. Each community would receive a percentage of stock in the merged system in proportion to the resources the community contributed to the system.
3. Any profits generated by the system would be returned to communities in proportion to the stock they owned.
4. A designated amount of stock would be set aside for communities which do not have large water utilities to allow them to purchase stock in the system. This would also serve as a means of raising capital for the system.

5. Funds needed by the system could also be raised through the issuance of bonds.

The Subcommittee members discussed the proposal among themselves and with representatives of local governments in southeastern Virginia. The consensus of the members was that the Subcommittee and the Commission should continue to look at this and all other possibilities for a regional effort to solve water problems of the area.

The second subcommittee addressed the need to further regulate the drilling of water wells. The subcommittee received testimony from both the Department of Health and the Water Control Board which indicated that there were fewer shortcomings with regard to the regulation of this industry than the subcommittee had previously thought. Many regulations of both departments already purport to protect the public welfare from harm caused by improper well drilling. The subcommittee determined that the main need for new legislation concerned the licensing of well drillers. It therefore submitted draft legislation to the Commission to license well drillers. The proposal also requires all well construction, except that done by a landowner for his own needs, to be performed by or under the supervision of a licensed well driller.

The full Commission concerned itself with two major initiatives to alleviate water supply problems: amendments to the Groundwater Act and the interbasin transfer of water.

The Commission had received testimony from the Water Control Board and others during its study that a number of deficiencies existed in the Groundwater Act of 1973. The most serious of these was the exemption of municipalities from the provisions of this statute. Other changes proposed for the Act included a lowering of the limit of pumpage which would be regulated, a requirement that well drillers furnish information on new wells, a change in the base upon which withdrawals are grandfathered, and a new fee system for permitted withdrawals. The Commission considered these changes and voted to recommend appropriate legislation to bring them into effect.

The Commission also gave careful consideration to, and approved, legislation regulating the interbasin transfer of water. The proposed statute requires the Water Control Board to issue permits for such transfers when the Board finds that issuance of a permit is in the public interest. In determining whether the transfer is in the public interest, the Board may consider (1) the effect of the transfer on uses of the streams and areas affected, (2) benefits which the Commonwealth and its localities would enjoy as a result of the transfer, (3) the capability of a permittee to fulfill the terms of the permit, (4) the likelihood that a transfer will cause the State to exceed its equitable share of the waters of a river flowing into another state, should one be involved in the transfer, and (5) other factors relevant to a determination of the public interest. The statute also requires the permittee to make payments to the Board for withdrawals; funds from the payments are to be divided among (1) the county or city from which water is withdrawn, (2) counties or cities adjoining that from which the water is withdrawn, and (3) the Board.

Finally, the Commission discussed the need for further study of the Commonwealth's water supply and allocation problems. Accordingly, it agreed to request that the Commission be continued.

III. Recommendations

The Commission recommends that the General Assembly approve the following legislation:

1. a bill to license well drillers (Appendix A);
2. a bill to eliminate the deficiencies of the Groundwater Act (Appendix B);
3. a bill to establish a system to permit the interbasin transfer of water (Appendix C); and
4. a resolution continuing the Commission (Appendix D).

Respectfully submitted,

Howard P. Anderson*

Charles J. Colgan

J. Paul Councill, Jr.
James H. Dillard, II.
Louis L. Guy, Jr.*
Glenn B. McClanan*
Wiley F. Mitchell
James B. Murray
Lewis W. Parker, Jr.
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STATEMENT OF SENATOR HOWARD P. ANDERSON

I concur with the recommendation concerning the bill to eliminate the deficiencies of the Ground Water Act, but do not concur with the recommendation concerning licensing of well drillers since this may be accomplished much less expensively by placing it under the existing Board of Contractors.

The matter of interbasin transfer of water needs further study; consequently, I concur with the action recently taken by the House Committee on Conservation and Natural Resources.

Howard P. Anderson

Concurrence and Comment on 1982 Report of State Water Study Commission

By Louis L. Guy, Jr., P.E.

I concur with the Commission's report and recommendations, as far as they go. I do not believe they go far enough, or that the pace of improvements is adequate to meet the needs of the Commonwealth.

For five years, through three extensions, the Water Study Commission has struggled with the statewide and specific regional problems of water supply and allocation. In 1980, these problems were identified as falling into seven major categories of needed improvements in state laws and institutions:

- "(1) The development of complete and accurate data on water use and water availability;
- (2) The removal of existing and potential legal obstacles to the use of water away from the source stream;
- (3) The coordination of groundwater and surface water laws and policies;
- (4) The coordination of measures to ensure water supply with those which ensure water quality;
- (5) The revision of the Groundwater Act to ensure its effectiveness as a management tool;
- (6) The protection of the few geographic sites that are logical locations for future reservoirs; and
- (7) The creation of a funding mechanism to generate the resources necessary to meet water resources planning and management needs."

Problem Number (1) was addressed in the Commission's recommendations to the 1981 General Assembly; Problems Number (2) and (5) have been addressed in this report to the 1982 General Assembly. So far, the Commission has not come to grips with the need for "a comprehensive water policy and recodification of water laws which will provide a mechanism of dealing with water quantity and quality in a manner such that efficient use and equity among all users will be promoted." Such a fundamental need was described in the last two reports of the Commission.

In my opinion, with each passing year, the need for such a policy and recodification is growing faster than our movement in that direction. If we fail to use the limited time available to remove existing uncertainty and obstructions to rational planning, we are drifting towards disaster. The end to the drought in Tidewater may turn out to be a curse instead of a blessing if it allows us to stick our heads back in the sand.

The Commission's single effort at a comprehensive coordinated solution to all seven problem areas was the abortive draft water code labeled Alternative "C" in last year's report. As an overly ambitious first draft, it was certainly vulnerable to the criticism of Commission members Baliles, Council, and Lewis Parker in their dissent to that report. However, Alternative "C" provided a mechanism for raising all the issues that need to be discussed in public. Such discussion is a necessary prerequisite to their resolution.

For this reason, I regret the premature burial of Alternative "C" and the refusal by the Commission to proceed with public workshops to discuss these issues. The Commission has learned much in five years about the weaknesses in the existing system and about the threat to Virginia's future health, economy, and welfare if these weaknesses go uncorrected. I believe this information needs to be shared with the public.

The basic question that still faces the Commission, and ultimately the General Assembly and the Governor, is whether Virginia intends to manage its water resources. It is obvious that conflicts between water users will grow with time in severity and frequency. The alternative to a state management system is a continuation of ad hoc accommodations which serve only the parties involved and may disregard equity, efficiency, economy, and environmental protection.

The groundwork has been laid for major improvements to Virginia water law to recognize the new status of Virginia water as a limited resource. Studies in 1980 for the Commission by the VPI Department of Agricultural Economics and by the Virginia Water Resources Research Center provide the background data and lay out our alternatives. It is now apparent that such changes will be considered only in a piecemeal approach. In its favor, this approach allows us to monitor the effects of the first bite before we take the second. To me, the most important point is that we stop ignoring the growing problem and begin to move in the right direction.

On November 9, 1981, most members of the Commission attended a workshop with presentations from Dr. William Walker and Dr. William Cox, the primary authors of our two studies. The five hour session focussed on the limited first steps which could be taken to address the most serious existing weaknesses in Virginia water law. They can be reduced to four elements:

- (1) Improvements to existing ground water law to reduce the major exemptions, to expand coverage to statewide, and to provide for state approval for interjurisdictional transport. (The proposed 1982 amendments to the Groundwater Act [Appendix B] offer progress in reducing exemptions; interjurisdictional transport remains the unresolved issue that caused the Norfolk-Suffolk lawsuit.)
- (2) Creation of interbasin transfer authority under state approval. (The current proposal [Appendix C] is a major step forward but it ignores the multitude of existing interbasin transfers and exempts future projects of limited size.
- (3) Creation of a compensation mechanism for the source area jurisdictions, tied both to interbasin transfer of surface water, and to interjurisdictional transfer of ground water. This is the missing key to convert the existing impasse into a no-lose framework.
- (4) Coincident with the new state approval process, elimination of the existing veto powers held by source local jurisdictions over proposed water projects. The principle is that the protection of a veto becomes unnecessary with the implementation of a state-directed compensation mechanism.

These four elements make sense to me, as a package. In my opinion, they would greatly improve our ability to arrive at an equitable no-lose solution and then implement it. Their consideration may take some time, but I am optimistic that the obvious need for improvements will be as clear to the whole Assembly as it must be to those members from Tidewater and northern Virginia. It must be noted that these changes would not solve our water supply problems. They would only create more favorable conditions for rational solutions. The optimum time to develop a management system fair to all interests is now, before a crisis forces a hastily-conceived solution that has only speed of implementation as its primary criterion.

STATEMENT OF GLENN B. MCCLANAN

To the extent that the State Water Study Commission during 1981 has provided impetus in Virginia toward necessary state water supply management for the protection and benefit of all the citizens of the Commonwealth, with appropriate and necessary regard for vested property rights, I assent.

To the extent that the bills proposed by the Commission would impose unfair burdens upon water users, and to any extent by which the bills would lessen the interest of the Commonwealth in the state's surface and ground water, I respectfully dissent. We must achieve equitable distribution of water for the benefit of the people, business and industry of the Commonwealth, with all reasonable protections and safeguards for the people in the areas from which any water may be received.

Appendix A

HOUSE BILL NO. 241

A BILL to amend and reenact § 54-1.18 of the Code of Virginia and to amend the Code of Virginia by adding in Title 54 a chapter numbered 31, consisting of sections numbered 54-969 through 54-971, to create a state board for water well drillers and to regulate the profession of water well drillers.

Be it enacted by the General Assembly of Virginia:

1. That § 54-1.18 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 54 a chapter numbered 31, consisting of §§ 54-969 through 54-971 as follows:

§ 54-1.18. Definitions.—As used in this chapter the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

1. “Certification” means the process whereby the Department or any regulatory board on behalf of the Commonwealth issues a certificate to any person certifying that he has minimum skills properly to engage in his profession or occupation and that it knows of no character defect that would make him a bad practitioner of the same.

2. “Board” means Virginia Board of Commerce.

3. “Department” means the Department of Commerce.

4. “Director” means the Director of the Department of Commerce.

5. “Inspection” means a method of regulation whereby a *State state* agency periodically examines the activities and premises of practitioners of an occupation or profession in order to ascertain if the practitioner involved is carrying out his profession or occupation in a fashion consistent with the public safety, health and welfare.

6. “Licensing” means a method of regulation whereby the practice of the profession or occupation licensed is unlawful without the issuance of a license.

7. “Registration” means a method of regulation whereby any practitioner of a profession or occupation may be required to submit information concerning the location, nature and operation of his practice.

8. “Regulatory board” means (i) the State Board of Accountancy, (ii) State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, (iii) Virginia Athletic Commission, (iv) Virginia Board of Examiners for Audiology and Speech Pathology, (v) Board of Barber Examiners, (vi) Virginia Board of Behavioral Science, (vii) Virginia Board of Professional Counselors, (viii) Virginia Board of Psychology, (ix) Virginia Board of Social Workers, (x) Virginia Collection Agency Board, (xi) State Registration Board for Contractors, (xii) Board of Commercial Driver Training Schools, (xiii) Virginia State Board of Examiners of Professional Hairdressers, (xiv) Virginia Board of Hearing Aid Dealers and Fitters, (xv) State Board for the Certification of Librarians, (xvi) State Board of Examiners for Nursing Home Administrators, (xvii) Virginia State Board of Opticians, (xviii) State Board of Commissioners to Examine Pilots, (xix) Virginia Real Estate Commission, (xx) State Board of Sanitarians, (xxi) Board for the Certification of Water and Wastewater Works Operators, ~~and~~ (xxii) Virginia Board of Geology and (xxiii) *State Board for Water Well Drillers* .

CHAPTER 31.

WATER WELL DRILLERS.

§ 54-969. Definitions.—*The following terms as used in this chapter shall have the meanings given in this section:*

1. **“Board”** means the State Board for Water Well Drillers created by this chapter.
2. **“Licensing”** means the process of issuing a license by the Board certifying that the water well driller has met the requirements established by the Board to construct or supervise the construction of wells.
3. **“Well”** means any artificial excavation constructed by any method which is capable of extracting water from, or injecting water into, the ground. It shall include, but not be limited to, water-table wells, artesian wells, core-boring holes, recharge wells, drainage wells, geothermal wells, and waste disposal wells.
4. **“Well construction”** means the development of any well, including the construction, alteration, or repair thereof, but excluding the installation of pumps and pumping equipment.
5. **“Well driller”** means any person, firm, or corporation which constructs, alters, or repairs wells.

§ 54-970. Creation of Board and Membership.—*There is hereby created the State Board for Water Well Drillers, which shall administer the provisions of this chapter. The Board shall be composed of three well drillers and two citizen members to be appointed by the Governor subject to confirmation by the General Assembly. All vacancies occurring on the Board shall be filled by the Governor. One of the initial appointments shall be for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Thereafter all appointments shall be for a term of five years except that appointments to fill vacancies shall be for the appropriate unexpired term. Each member of the Board shall be a citizen of the United States and a resident of Virginia. Each well driller member of the Board shall be a Virginia licensed well driller under this chapter except that each well driller initially appointed shall be a qualified well driller. A member of the Board shall hold office until his successor is duly named unless he resigns or is removed by the Governor. No person shall be eligible to serve on the Board for more than two successive full terms. The Board shall elect a chairman from its membership. A quorum of the Board shall consist of not fewer than three members, two of whom shall be well driller members. In addition to the appointed Board members, the Director, Division of Water Programs, State Department of Health, and the Executive Director, State Water Control Board, shall serve as ex officio members of the Board. The Board shall establish such regulations as may be necessary for the reasonable administration of this chapter.*

§ 54-971. Licensing.—*In order to safeguard and protect the public health, welfare and property and to conserve and protect the Commonwealth’s water resources, all well construction, except those wells constructed by an individual landowner for the withdrawal of water for domestic or agricultural use by such individual for use on his own land, shall be performed by or under the supervision of a licensed well driller. The Board shall in its regulations consider exemptions to this licensing provision where the act of well construction will not pose a significant threat to public health or water resources.*

Appendix B

HOUSE BILL NO. 157

A BILL to amend and reenact §§ 62.1-44.84, 62.1-44.85, 62.1-44.87, 62.1-44.90, 62.1-44.91, 62.1-44.92, 62.1-44.93, 62.1-44.94, 62.1-44.96, 62.1-44.97, 62.1-44.99, 62.1-44.100, 62.1-44.102, 62.1-44.103, and 62.1-44.104 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 62.1-44.106:1 and to repeal § 62.1-44.106 of the Code of Virginia, relating to the Groundwater Act of 1973.

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.84, 62.1-44.85, 62.1-44.87, 62.1-44.90, 62.1-44.91, 62.1-44.92, 62.1-44.93, 62.1-44.94, 62.1-44.96, 62.1-44.97, 62.1-44.99, 62.1-44.100, 62.1-44.102, 62.1-44.103, and 62.1-44.104 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 62.1-44.106:1 as follows:

§ 62.1-44.84. Declaration of policy.—It is the policy of the Commonwealth of Virginia and the purpose of this law to recognize and declare that the right to reasonable control of all groundwater resources within this ~~State Commonwealth~~ belongs to the public and that in order to conserve, protect and beneficially utilize the groundwater of this ~~State Commonwealth~~ and to ensure the preservation of the public welfare, safety and health, it is essential that provision be made for ~~control~~ *management* of groundwater resources. *The management of groundwater resources shall include the control of the location, the pumping, the construction and abandonment of groundwater withdrawal facilities to the extent necessary to preserve and protect the quantity and quality of groundwater as a continuing resource for present and future use.*

§ 62.1-44.85. Definitions.—As used in this chapter, unless the context requires otherwise:

(1) “Altering or rehabilitating or extending” means the deepening, recasing, reperforating, the installation of packers or seals and other material changes in the construction design of a well.

(2) “Artificial storage” and “artificially stored” means, respectively, the act of storing water in underground formations (aquifers), and groundwater that is placed in aquifers for specific future use.

(3) “Board” means the State Water Control Board.

(4) “Certificate of groundwater right” means a document issued by the Board evidencing the right to ~~use~~ *withdraw* groundwater.

(5) “Constructing” a well includes boring, digging, drilling or otherwise excavating a well hole and installing casing with or without well screens, or well curbing.

(6) [Repealed.]

(6a) “Groundwater management area” means a geographically defined groundwater area in which the Board has deemed the levels, supply or quality of groundwater to be adverse to public welfare, health and safety.

(7) “Department” means the State Health Department.

(8) “Groundwater” means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this ~~State Commonwealth~~, whatever may be the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

(9) “Groundwater area” means a ~~geographical region designated by the Board as a groundwater unit~~ *any area of the Commonwealth not declared to be a groundwater management area* for purposes of administering the provisions of this chapter.

(10) "Permit" means a document issued by the Board permitting construction, alteration, rehabilitation or extension of a well or spring or the withdrawal of a specified quantity of groundwater for beneficial use in a groundwater management area.

(11) "Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the law of this ~~State~~ *Commonwealth* or any other state or country.

(12) "Pollution" of groundwater means any impairment of the natural quality of such groundwater except in a soil zone designed and approved to receive treated domestic waste and sewage, however caused, including, but not limited to, impairment by salines.

(13) "Registration statement" means a document filed with the Board by a person claiming a right to ~~use~~ *withdraw* groundwater under § 62.1-44.93.

(14) "Well" means any artificial opening or artificially altered natural opening, however made, by which groundwater is sought or through which groundwater flows under natural pressure or is intended to be artificially drawn; provided that this definition shall not include wells drilled for the purpose of exploration or production of oil or gas, for building foundation investigation and construction, elevator shafts, grounding of electrical apparatus, or for geophysical investigation; and provided further, that the actual construction and prior and subsequent details for such wells shall be subject to observation and investigation by authorized personnel to determine relationships between such drilled wells and quality and volume of groundwater.

§ 62.1-44.87. Withdrawals for which certificate of groundwater right, permit or registration statement not required.—No certificate of groundwater right, permit or registration statement authorized by this chapter shall be required for the ~~use or supplying~~ *withdrawal* of groundwater for agricultural and livestock watering purposes, ~~for human consumption or domestic purposes~~, or for any ~~other single industrial or commercial~~ purpose in an amount ~~not exceeding fifty thousand gallons a day less than 10,000 gallons a day or such larger amount as the Board may determine to be sufficient to protect the resource based on conditions in each groundwater management area, but in no event shall such amount be in excess of 50,000 gallons a day~~. ~~The use~~ Any withdrawal of groundwater ~~for any such purpose~~ to the extent that it is applied to a beneficial use constitutes a right to ~~use~~ *withdraw* groundwater equal to that established by a certificate of groundwater right issued under the provisions of this chapter. Further, no certificate of groundwater right, permit or registration statement shall be required for the ~~beneficial use~~ *withdrawal* of groundwater in any groundwater area which has not been declared a groundwater management area.

In the case of groundwater management areas established prior to July 1, 1982, the Board, after proper notice and public hearing, shall designate no later than October 1, 1982, those amounts above the minimum for which no certificate of groundwater right, permit or registration statement shall be required.

§ 62.1-44.90. Board may require information from persons withdrawing groundwater or constructing a well.—The Board may require any person ~~using~~ *withdrawing* groundwater or *constructing a well* for any purpose in any groundwater area, whether or not declared to be a groundwater management area, to furnish information with regard to ~~such~~ *the construction of the well and the strata involved with regard to the groundwater and the* ~~use~~ *withdrawal* thereof.

When one person constructs a well for another, the person constructing the well shall furnish the required information.

§ 62.1-44.91. Agreements among groundwater withdrawers.—In the administration of this chapter, the Board may encourage, promote and recognize voluntary agreements among groundwater ~~users~~ *withdrawers* in the same groundwater management area. When the Board finds that any such agreement, executed in writing and filed with the Board is consistent with the intent, purposes and requirements of this chapter, the Board shall approve the agreement, and thereafter such agreement, until terminated, shall control in lieu of a formal order, rule or regulation of the Board under the provisions of this chapter.

Any agreement approved by the Board shall be subject to termination by the Board if the Board

finds that it or its effect is inconsistent with the intent, purposes and requirements of this chapter.

§ 62.1-44.92. Rules of Board.—In the administration of this chapter, the Board shall, after public hearings pursuant to § ~~62.1-44.106~~ 62.1-44.106:1 herein, adopt rules governing procedures with respect to:

- (1) Registration statements, permits and certificates of groundwater rights;
- (2) Collection of fees for administration of this chapter;

(3) Requirements that naturally flowing wells be plugged or destroyed, or be capped or equipped with valves so that flow of groundwater may be completely stopped when the groundwater is not actually being applied to a beneficial use;

(4) Prescribing and enforcing general standards, ~~jointly in consultation~~ with the Department and compatible with purposes of this chapter, for the *location*, construction and maintenance of wells ~~including their casings, screens, fittings, valves, meters and pumps and their appurtenances~~ ;

(5) Prescribing and enforcing uniform standards and methods for the scientific measurement of water levels and of groundwater flowing from or withdrawn from wells and springs;

(6) Prescribing and enforcing uniform standards and methods ~~jointly in consultation~~ with the Department for the abandonment of water wells;

(7) Entering upon any lands after notice to the owner or custodian, for the purposes of inspecting wells and springs;

- (8) Prosecuting ~~jointly with the Department~~ actions and suits to enjoin violations of this chapter;
- (9) Other matters consistent with this chapter as the Board deems necessary.

§ 62.1-44.93. Rights of persons withdrawing groundwater on date area is declared to be a study area or within two years before. (a) There is hereby recognized and preserved the right of persons within groundwater management areas to continue to apply groundwater to beneficial uses to the ~~following extent of their beneficial uses thereof~~ : *in the case of persons subject to the certification, permit and registration requirements of this chapter before July 1, 1981, the right shall be to the extent of the daily withdrawal of groundwater on the date such area is was declared a groundwater management area or on any date within two years prior to such date.*

In the case of persons in existing groundwater management areas made subject to the certificate, permit and registration requirements of this chapter pursuant to the amendments to § 62.1-44.87 adopted by the 1982 Session of the General Assembly, such right shall be to the extent of the maximum monthly and average yearly withdrawal for beneficial use for the twenty-four calendar month period prior to July 1, 1982, except as provided in § 62.1-44.93 (c).

In the case of persons made subject to the certificate, permit and registration requirements of this chapter due to the declaration of a groundwater management area after July 1, 1982, such right shall be to the extent of the maximum monthly and average yearly withdrawal for beneficial use for the twenty-four calendar month period prior to the date such area was declared a groundwater management area.

(b) Any person engaged in good faith ~~at the time the~~ *in the construction, alteration, rehabilitation or extension of a well for the withdrawal of groundwater on the date or within two years prior to the date a groundwater area is declared to be a groundwater management area, in the construction, alteration, rehabilitation or extension of a well for the application of groundwater to beneficial uses or for those in an existing groundwater management area who are made subject to the certificate, permit and registration requirements of this chapter on July 1, 1982 or within two years prior thereto shall* , upon the completion thereof within a reasonable time fixed by the Board, ~~shall~~ be recognized by the Board as having a right to ~~use~~ *withdraw* groundwater to the extent of ~~the intended beneficial uses thereof~~ *design capacity of the groundwater withdrawal facilities for a period up to thirty-six months after completion of such facilities. At the conclusion of the first twenty-five month period a permit will be issued to the extent of the maximum*

monthly and average yearly withdrawal not to exceed the design capacity .

(c) ~~The rights recognized and preserved by this section are expressly subject to the right and authority of the General Assembly or the Board, pursuant to subsequent and specific delegation of authority by the General Assembly, to hereafter limit such rights should the General Assembly determine that the continued, unrestricted uses of groundwater contribute or will contribute to pollution or shortage of groundwater thereby jeopardizing the public health, safety or welfare.~~

Notwithstanding any provision of law to the contrary, each public water supply well constructed in the Southeastern Virginia Groundwater Management Area prior to July 1, 1982, to provide supplemental water during water shortages may, as a matter of right, be operated to withdraw groundwater at a rate not to exceed its design capacity. A registration statement may be filed with respect to any such well by January 1, 1983, and upon recording such registration statement, the Board shall issue to the registrant a certificate of groundwater right in the amount of the design capacity of the well as evidence that the registration is complete. Any such certificate of groundwater right shall expire on July 1, 1992, or on such earlier date as any contract governing the operation of the well shall be terminated or amended to remove each restriction on the continuous operation of the well.

(d) *In the event a jurisdiction elects to utilize any of the wells covered by (c) of this section for continuing production of water, it shall make application for a permitted withdrawal as provided in § 62.1-44.100.*

§ 62.1-44.94. Groundwater rights subject to further limitation by the General Assembly.— ~~The Board or its authorized representative shall describe the geographical locations of groundwater areas in the State and locate their boundaries on maps and designate such areas by a distinctive name or number as a means of identification. The rights granted, recognized or preserved by this chapter are expressly subject to the right and authority of the General Assembly or the Board, pursuant to subsequent and specific delegation of authority by the General Assembly, to hereafter limit such rights should the General Assembly determine that the continued, unrestricted withdrawal of groundwater is contributing or will contribute to pollution, or shortage of groundwater, or other effects that will damage aquifers for a continuing use as a water resource, thereby jeopardizing the public health, safety or welfare .~~

§ 62.1-44.96. Declaration that area is a groundwater study area.—(a) If, after public hearing, the Board finds that any of the circumstances set forth in subsection (a) of § 62.1-44.95 are true and further finds that the public welfare, health and safety require that any one or more corrective controls be adopted, the Board shall by order declare the area in question to be a groundwater management area. The Board shall mail a copy of such order to the mayor or chairman of the governing body of each county, city or town within which any part of such area lies and of each county, city or town having the right to make substantial beneficial uses of groundwater from such area.

(b) ~~The order of the Board shall define the boundaries of the groundwater management area and shall indicate which of the groundwater areas, with respect to depths below land surface of specific aquifers, located within the area in question are included within the groundwater management area and shall include all aquifers in the area . Any number of aquifers which either wholly or partially overlap one another may be included within the same groundwater management area.~~

§ 62.1-44.97. Withdrawal of groundwater, construction of well, etc., in groundwater management area.—After an area has been declared to be a groundwater management area by an order of the Board, no person shall ~~use~~ withdraw or attempt to ~~use~~ withdraw any groundwater, construct or attempt to construct any well or operate or allow operation of any well owned or controlled by such person, except for those uses exempted under § 62.1-44.87 and those with rights recognized under § 62.1-44.93, without a permit or certificate of groundwater right.

§ 62.1-44.99. Registration statements to be filed by withdrawers of groundwater in groundwater management areas; issuance of certificates of groundwater rights.—(a) Within six months after a groundwater management area declaration by the Board, *or for persons in an affected class, within six months of any amendment to § 62.1-44.87 of this Code which extends the requirements of this chapter to a class of groundwater users previously exempt from such requirements,* any person

claiming any right to ~~use~~ *withdraw* groundwater under § 62.1-44.93, is entitled to file with the Board a registration statement as evidence of a right to ~~use~~ *withdraw* groundwater as provided in § 62.1-44.93. Failure of such a person to file a registration statement within such six-month period creates a presumption that any such claim has been abandoned.

(b) Upon receipt of a registration statement from any person referred to in subsection (a) of this section within the period specified, the Board shall promptly assign a serial number to each registration statement for each well.

(c) Each registration statement shall be in a form prescribed by the Board, shall be under oath and shall contain such information consistent with this chapter as the Board deems necessary.

(d) If, upon examination by the Board, the registration statement is found to be defective, the statement shall be returned for remedy of the defect. The date of and the reasons for the return shall be endorsed on the statement and the endorsement shall be made a record in the office of the Board. No statement shall lose its standing under § 62.1-44.93 on account of any such defect, providing a proper statement is filed in the office of the Board within thirty days from the date of the return, or such further time, not exceeding one year, as may be allowed by the Board.

(e) Any person who fails to file a registration statement within the period set forth in subsection (a) of this section may file within one year a petition with the Board requesting that he be given an opportunity to rebut the presumption that he has abandoned his claim. Upon the filing of such a petition the Board may schedule a hearing to take testimony and evidence on the date of well construction and the use of groundwater or the Board may, in its discretion, accept sworn statements in writing in support of such petition. No petition shall be denied without a public hearing. If it appears at the hearing or from such sworn statements that the person has a use of groundwater as prescribed in § 62.1-44.93, the Board shall issue an order authorizing the petitioner to file a registration statement as described under subsection (c) of this section. Upon receipt of the completed registration statement, the Board shall issue to the registrant a certificate of groundwater right.

(f) The Board shall accept all registration statements referred to in this section completed and returned to it in proper form, endorse thereon the date of the return and record each statement in a book kept by the Board for that purpose. Upon such recording the Board shall issue to the registrant a certificate of groundwater right as evidence that the registration is completed.

§ 62.1-44.100. Permit to acquire or enlarge withdrawal of groundwater in study area.—(a) Any person intending to acquire or enlarge a ~~use~~ *withdrawal* of groundwater within a groundwater management area, except for any ~~purpose use~~ exempt under § 62.1-44.87, shall apply to the Board for and receive a permit before constructing, rehabilitating, altering or extending a well or before ~~using~~ *withdrawing* the groundwater. The application for a permit shall be on a form prescribed by the Board and shall contain such information consistent with this chapter as the Board deems necessary.

(b) The Board shall accept all applications for permits required by § 62.1-44.100 (a) submitted to it in proper form and endorse thereon the date of receipt and record each application in a book kept for that purpose.

(c) If, upon examination by the Board, the application is found to be defective, the application shall be returned to the applicant for his remedy of the defect. The date of and the reasons for the return shall be endorsed on the application and the endorsement shall be made a record in the office of the Board. No application shall lose its priority of filing on account of any such defect, providing an acceptable application is filed in the office of the Board within thirty days from the date of the return of the application to the applicant or such further time, not exceeding one year as may be allowed by the Board.

(d) When *the review of* an application discloses the probability of wasteful use or undue interference with existing wells or that any proposed use of a well will impair or substantially interfere with existing rights to ~~use~~ *withdraw* groundwater by others, the Board may impose conditions or limitations in the permit to ~~prevent~~ *address* such interference or reject the application after a hearing.

(e) An application may be approved for less groundwater than applied for or it may be approved upon terms, conditions and limitations necessary for the protection of the public welfare, safety and health. In any event, the application shall not be approved for more groundwater than is applied for or that can be applied to a beneficial use. No application shall be approved when the same will deprive those having prior rights of beneficial use of the amount of groundwater to which they are lawfully entitled.

(f) Upon any application for permit to acquire a new right or enlarge an existing right to groundwater, a copy of such application shall be sent by registered or certified mail to each local governing body in the groundwater management area and to each local governing body having the right to make substantial beneficial uses of groundwater from such area. Such local governing body may furnish comments upon it to the Board within twenty-one days of receipt.

(g) ~~Immediately after~~ *In addition to the* action by the Board pursuant to subsection (f) of this section, the Board shall cause to be published in at least one issue each week for at least two consecutive weeks in a newspaper of general circulation in the area where the application for permit pertains, a notice of such application, ~~and the time and place of the Board's meeting at which the application will be considered the name and address of the staff personnel to whom comments on the application may be directed, and the dates by which all comments must be filed~~ . The notice shall be published first no later than ~~twenty-one~~ *thirty* days nor earlier than ~~twenty-eight~~ *sixty* days prior to the *next regularly scheduled* meeting of the Board ~~to consider the application~~ .

(h) Any person having a right to use *withdraw* groundwater in a groundwater management area may file with the Board at any time prior to the issuance of the permit a protest against the issuance of such permit.

(i) Whenever, in the opinion of the Board, a hearing is necessary to determine whether the proposed use *withdrawal* applied for under this section will conflict with existing rights to use *withdraw* groundwater, the Board or its designated representative may hold a public hearing.

(j) The approval or rejection of an application for a permit referred to in this section shall be endorsed thereon and a record of such endorsement shall be made in the office of the Board. The endorsed application shall be returned immediately to the applicant. If the application is approved, the endorsed application constitutes a permit to use groundwater, and the applicant, upon receipt thereof, may withdraw the groundwater and apply it to beneficial use. If the application is rejected, the applicant shall not withdraw or use the groundwater so long as the rejection continues in effect. A right to use *withdraw* groundwater under a permit shall have a priority from the date on which the application was filed with the Board.

§ 62.1-44.102. Cancellation or suspension of certificate or permit.—Whenever, after a public hearing, the Board finds that the holder of a certificate of groundwater right or a permit is willfully violating any provision of such certificate or permit or any other provision of this chapter, the Board may cancel or suspend such certificate or permit or impose conditions on the future use *withdrawal* thereof in order to prevent future violations.

§ 62.1-44.103. Artificial storage of water in subsurface geologic formations.—Artificial storage of water in subsurface geologic formations must be approved ~~jointly by the Department and the Board~~ *by the Board in consultation with the Department* .

§ 62.1-44.104. Fees.— ~~In the administration of this chapter, the following fees shall be collected by the Board in advance, and paid into the general fund of the State treasury:~~

(a) ~~Five dollars for examining a registration statement or an application for a permit. The Board, with the cooperation of the Department, shall undertake in each groundwater management area a monitoring program to develop the geophysical aspects of the aquifers designated by the declaration of a groundwater management area and to determine the effects on the aquifer of existing and proposed withdrawals.~~

(b) ~~Five dollars for filing and recording a registration statement, a permit or a certificate of groundwater right. The cost of such monitoring program shall be defrayed by a fee, not to exceed five dollars per one million gallons for all groundwater withdrawals other than withdrawals for which no permit, certificate of groundwater right or registration statement is required. This fee~~

shall be assessed upon the annual quantity of groundwater withdrawal permitted by any certificate of groundwater right or groundwater permit issued by the Board.

(c) The Board shall, by regulation, determine an equitable and practical means of collecting such fees.

§ 62.1-44.106:1. Procedure for hearings; adopting regulations and judicial review.—A. Procedures under this chapter shall be as provided in the Administrative Process Act, as supplemented by this chapter.

B. A copy of all notices of hearing shall be mailed to the mayor or chairman of the governing body of each county, city or town within the area proposed to be affected by such action, and of each county, city or town having the right to make substantial beneficial uses of groundwater from such area.

C.1. Any party to a proceeding aggrieved by, or any freeholder or lessee adversely affected by, or any political subdivision which may be adversely affected by any final order or decision of the Board shall have a right to appeal to the circuit court of the county or city wherein his well is located within thirty days after such order or decision has become final.

2. Judicial review shall be in accordance with the provisions of the Administrative Process Act, except that the circuit court shall modify or reverse the order or decision of the Board or remand the case for further proceedings:

a. If the order or decision of the Board will not adequately achieve the policy and standards of this chapter or will not reasonably accommodate any guidelines which may have been promulgated by the Board; or

b. If the substantial rights of the appellant have been determined to be prejudiced because the findings, conclusions or decisions are: (i) in violation of constitutional provisions; or (ii) in excess of statutory authority of the Board; or (iii) made upon unlawful procedure; or (iv) affected by other error of law; or (v) unsupported by the evidence on the record considered as a whole; or (vi) arbitrary, capricious, or an abuse of discretion.

3. From the final decision of the circuit court an appeal shall lie to the Supreme Court in the manner provided by law for appeals in civil cases. No bond shall be required by the Board in appeals to the Supreme Court.

4. Upon appeal filed by any party, the Board shall forthwith furnish each party to the proceeding with a copy of the certified transcript and exhibits filed with the Board. A reasonable charge shall be paid the Board for said copies.

5. Within fifteen days after receipt of copy of certified transcript and exhibits, any party may file with the court exceptions to the accuracy or omissions of any evidence or exhibits included in or excluded from said transcript.

2. That § 62.1-44.106 of the Code of Virginia is repealed.

Appendix C

HOUSE BILL NO. 503

A BILL to amend the Code of Virginia by adding in Title 62.1 a chapter numbered 21, consisting of sections numbered 62.1-197 through 62.1-207, establishing an interbasin transfer act.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 62.1 a chapter numbered 21, consisting of sections numbered 62.1-197 through 62.1-207 as follows:

CHAPTER 21.

INTERBASIN TRANSFER ACT.

§ 62.1-197. Short title; legislative findings.—The short title of this chapter is Interbasin Transfer Act. It is hereby declared to be the policy of the Commonwealth of Virginia and the purpose of this chapter to promote the efficient and equitable distribution and management of water resources throughout the Commonwealth, and to ensure an adequate supply of water for human consumption and domestic use, for municipal, commercial and industrial use, for agricultural use, and for such other uses as may be appropriate, while recognizing and protecting instream uses, including but not limited to recreational and aesthetic uses, fish and wildlife protection and water quality. For these purposes, the General Assembly finds that the health, safety and welfare of the Commonwealth are best served by authorizing the interbasin transfer of water under appropriate circumstances from one part of the Commonwealth to any other part of the Commonwealth.

§ 62.1-198. Definitions. — For the purposes of this chapter, the following words shall have the meanings respectively ascribed thereto:

“Board” shall mean the State Water Control Board;

“Interbasin transfer” shall mean a transfer of surface water from one watershed to another watershed;

“Watershed” shall mean the drainage area of any stream, creek, river or other water body;

“Jurisdiction” shall mean any county or city within the Commonwealth;

“Permittee” shall mean any person who has received a permit from the Board pursuant to the provisions of this chapter;

“Person” shall mean any individual, corporation, partnership, association, city, county, service authority or other political subdivision or agency of the Commonwealth, or other governmental entity.

§ 62.1-199. Interbasin transfer permit required; exemptions. — A. No interbasin transfer shall be commenced or expanded, nor shall any facilities therefor be constructed until the Board has issued a permit for the transfer.

B. The provisions of this section shall not apply to (i) interbasin transfers of less than 500,000 gallons a day, (ii) interbasin transfers commenced prior to July 1, 1982, (iii) the expansion of any interbasin transfer commenced prior to July 1, 1982, if the expansion does not require the construction of an additional or larger pipeline or other conduit or (iv) a transfer project for which ten percent of the overall projected construction costs have been committed prior to July 1, 1982.

§ 62.1-200. Board to issue permits, criteria. — A. The Board shall issue a permit to any person for any interbasin transfer of surface water if after application for such a permit and opportunity

for public comment and a hearing before the Board, the Board finds that issuance of the permit is in the public interest. The applicant shall specify the location of all collection, withdrawal and transmission facilities, and such additional information as the Board may require. The Board shall publish notice of the permit application once a week for four consecutive weeks in a newspaper of general circulation in each jurisdiction to be affected by the transfer, and the Board shall mail such notice to the governing body of each such jurisdiction.

B. In making its determination of whether the transfer is in the public interest the Board shall consider:

1. The effect of the transfer on existing and future uses of the streams and areas affected, including, but not limited to, recreational uses, private uses, public uses, industrial uses, water quality and property values;

2. The beneficial impact on the Commonwealth and its jurisdictions, of any proposed transfer;

3. The capability of the applicant to implement effectively its responsibilities under the requested permit;

4. Where water is proposed to be transferred from a river that flows directly into another state, whether that transfer together with other uses will exceed the Commonwealth's equitable share of the waters of that river; and

5. Such other factors as may be relevant to the Board's determination of the public interest.

C. In any case where the Board determines that the transfer may adversely affect another state or the District of Columbia, the Board may consult with the appropriate agency in that state or the District of Columbia, and any bi-state committee, interstate committee or agency concerned with the affected body of water.

§ 62.1-201. Local compensation. – A. The permittee shall make payments to the Board at a rate to be agreed upon by the permittee and the jurisdiction wherein lies the intake structure and appurtenant conduits. The rate of payment shall not be less than ten cents per 1000 gallons withdrawn. The Board shall disburse the funds collected in the following manner: (i) forty percent to the jurisdiction within which the intake structure and appurtenant conduits lie and (ii) sixty per cent to be divided equally among the Board and all jurisdictions which adjoin the jurisdiction covered in (i) above.

B. The sums allocated to the Board pursuant to paragraph A of this section shall be set aside in a special fund to be used to compensate any person injured or damaged by the permitted transfer who cannot otherwise recover. In the event the Board determines that the fund established hereunder is substantially larger than such amount as may be needed to pay such damage or injury claims, the Board may use any excess funds for the purpose of studying and managing the state's water resources. If the permittee has purchased or acquired the rights of persons who would have been damaged or injured by the permitted transfer, the Board shall refund to the permittee the sums allocated to the Board pursuant to paragraph A of this section.

§ 62.1-202. Controls of permit. – The permit shall specify the location of all collection, withdrawal and transmission facilities to be constructed to effect the transfer and shall require: (i) that the permittee pay the Board the sums required by § 62.1-201 of this Code; (ii) that interbasin transfers cease or decrease when the actual flow of the transferor stream or level of the transferor lake is less than a specified minimum required to protect against adverse effects to the transferor body of water or region; and (iii) that the permittee comply with such other requirements as may be advisable to promote an adequate water supply for the Commonwealth at reasonable costs and to mitigate any adverse conditions or effects which the Board finds exist but are not sufficient to require denial of the permit. The permit shall be subject to the requirements of the owner of any impoundment from which the water is withdrawn, and to the requirements of any state or federal agency having jurisdiction over the source of the water to be transferred.

Notwithstanding any provision hereof to the contrary, if the permittee shall have declared a water resources emergency and instituted mandatory conservation measures, the Board shall grant the permittee authority to continue transfers of water even though the actual flow of the transferor

stream or level of the transferor lake is less than the specified minimum; provided, however, that the flow in the transferor stream shall not be reduced below the low flow that occurs for seven consecutive days once every ten years.

§ 62.1-203. Local ordinances not applicable. – Approval of a permit pursuant to the provisions of this chapter shall be deemed to satisfy the requirements of § 15.1-456 of this Code and all local ordinances with respect to a permit issued hereunder. In approving a permit application, the Board shall require the permittee to construct and operate the collection, withdrawal and transmission facilities consistent with otherwise applicable local ordinances to the extent practicable. The Board shall solicit comments on the effect of the construction and operation of the facilities from each jurisdiction in which they are proposed to be located.

§ 62.1-204. Appeal. – An appeal of the Board's decision shall be initiated by filing a notice of appeal with the Board within thirty days of its decision, and by filing a notice of appeal with the Clerk of the Supreme Court within 120 days of the Board's decision. The Chief Justice of the Supreme Court shall appoint a special court to hear the appeal. The special court shall be composed of three circuit judges from jurisdictions remote from the transferor and receiving areas. It shall sit without a jury. If a vacancy occurs on the special court at any time prior to the final disposition of the case, the vacancy shall be filled by designation of another judge and the proceeding shall continue.

No decision of the Board or special court under this chapter shall be subject to any direct or collateral attack in any state administrative or judicial proceeding, and appeal as provided herein shall be the exclusive remedy for any injured party. The consent or approval of any political subdivision under §§ 15.1-37.1, 15.1-332.1, 15.1-875, or 15.1-1250.1 shall not be required to implement any transfer of water or construction of any facility authorized by the Board's permit. No state agency or political subdivision shall have authority to institute or intervene as a plaintiff in any federal administrative proceeding or civil action in federal court seeking relief under any federal or state constitutional provision, statute, regulation or common law authority to deprive permittee of any authority to the transfer of water or construction or operate the facility authorized by the Board's permit.

§ 62.1-205. Applicability of Administrative Process Act. – The provisions of the Administrative Process Act shall apply to all proceedings under this chapter, including appeal, except as otherwise provided in this chapter.

§ 62.1-206. Rules and regulations of the Board. – The Board may adopt rules and regulations to carry out the intent of this chapter.

§ 62.1-207. Injunction. – A. Any person violating or failing, neglecting or refusing to obey any regulation or any provision of any permit issued by the Board pursuant to this chapter may be compelled in a proceeding instituted in the circuit court for the jurisdiction in which the water is being removed or would be removed, or in the Circuit Court for the City of Richmond by the Board to obey the same and to comply therewith by injunction, mandamus, or other appropriate remedy.

B. No injunction shall issue against any interbasin transfer permitted pursuant to this chapter, or any construction in aid thereof, including without limitation an injunction for violation of any provision of any local ordinance of any jurisdiction, except for failure to comply with the provisions of the permit, the provisions of this chapter, or the provisions of any regulations promulgated under this chapter.

Appendix D

HOUSE JOINT RESOLUTION NO. 13

To continue the State Water Study Commission.

WHEREAS, the State Water Study Commission was created in 1977 pursuant to House Joint Resolution No. 236 to recommend to the General Assembly ways to address water supply and allocation problems, particularly in Northern and Southeastern Virginia; and

WHEREAS, the State Water Study Commission was continued by the adoption of Senate Joint Resolution No. 1 during the 1978 Session of the General Assembly, Senate Joint Resolution No. 36 during the 1980 Session of the General Assembly and Senate Joint Resolution No. 152 during the 1981 Session of the General Assembly; and

WHEREAS, the State Water Study Commission has observed that many of the present laws, doctrines, policies and practices of the Commonwealth applicable to the use and allocation of the water resources of the Commonwealth may be inadequate to assure economically and environmentally effective management; and

WHEREAS, there exist critical present and potential areas of concern with regard to the water supply of the Commonwealth; and

WHEREAS, the Commission worked diligently in developing various legislative proposals; however, much work remains to be done; now therefore, be it

RESOLVED by the House of Delegates, the Senate of Virginia concurring, That the State Water Study Commission is hereby continued. The Commission shall continue its study and shall thoroughly analyze the water supply and allocation problems of the entire Commonwealth, making such recommendations as it deems necessary and advisable. The State Water Control Board is directed to provide staffing and such other assistance as is deemed necessary by the Commission in order to complete its task. All agencies of the Commonwealth shall assist the Commission upon request.

The membership of the Commission shall remain the same. If a vacancy occurs for any reason, it shall be filled in the same manner as the appointment of the original members.

All members of the Commission shall be entitled to such compensation as is set forth in § 14.1-18 for each day or part thereof devoted to their duties as members of the Commission. In addition to such compensation, all members shall be reimbursed for the actual and necessary expenses incurred in the performance of Commission duties.

For these purposes and for such consultants and other services as the Commission may require, there is hereby allocated from the general appropriation to the General Assembly the unexpended balance of such sums as were allocated by Senate Joint Resolution No. 1 of 1978, estimated at \$ 50,000.

The Commission shall report to the Governor and the General Assembly no later than December 1, 1982.

