

**REPORT OF THE**

**State Water  
Commission**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**House Document No. 31**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1986**

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**Charles J. Colgan, Vice Chairman**  
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**Millard B. Rice, Jr., Ex-Officio Member**  
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**Report of the  
State Water Commission  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
February, 1986**

To: Honorable Gerald L. Baliles, Governor of Virginia,  
and  
The General Assembly of Virginia

## **I. INTRODUCTION**

The State Water Commission is a legislatively mandated fifteen-member panel (Va. Code § 9-145.5) whose purpose is to:

1. Study all aspects of water supply and allocation problems in the Commonwealth.
2. Coordinate the legislative recommendations of all state entities having responsibility with respect to water supplies and allocation issues.

During 1985, the Commission continued its effort to develop a state water policy which would enable the Commonwealth to better manage its water resources. The Commission was requested by the 1985 General Assembly to determine the adequacy of the powers of local government to protect water resources (House Joint Resolution 243) and to prepare recommendations to address the Commonwealth's water supply and water quality needs (House Joint Resolution 338).

## **II. COMMISSION DELIBERATIONS**

The State Water Commission held its first meeting of the year on April 2, 1985, at which time it re-elected Delegate Lewis Parker chairman and Senator Charles Colgan vice-chairman. A study plan for the development of a state water policy was presented by staff. The Commission agreed that the objectives of both HJR 243 and HJR 338 would be addressed in this water policy study. An essential part of the study was to review the legislative recommendations of the State Water Plan Advisory Committee (SWPAC). This advisory committee was organized by the State Water Control Board (SWCB) in response to legislation (§62.1-44.38) enacted by the General Assembly in 1981. The primary role of SWPAC is to advise the SWCB in matters of water resources policy.

At the Commission's June 18, 1985, meeting, the staff of the SWCB reported the water policy recommendations of the SWPAC steering committee. These recommendations were as follows:

1. There is a need for comprehensive water resource management which would (a) require a permit system to regulate withdrawals from surface water and groundwater, and (b) rescind the water use reporting exemption for crop irrigation.
2. The Groundwater Act of 1973 should be modified by revoking the specific exemptions for municipal users and agricultural irrigation.
3. To protect the quality of groundwater, minimum statewide standards should be established for the construction of all water wells, and an effective system of enforcement should be implemented.
4. Existing law needs to be revised to provide for the use of the power of eminent domain by political subdivisions for water supply projects far in advance of construction.
5. Sufficient funding (\$20 million) should be provided to the Virginia Resources Authority for assistance to small "hardship" communities in meeting their clean water needs.

Mr. Richard Burton, Executive Director of the SWCB, emphasized that in order to implement an effective water management system, his agency needed the appropriate legislatively mandated management authority. He suggested the adoption of the previously mentioned recommendations, which would provide the Board with such authority.

The Commission, after considerable discussion, requested that staff develop draft legislation which would reflect the recommendations of the SWPAC. In response to this request, five draft

bills were prepared for public comment and are summarized as follows:

**Bill #1 - The Virginia Water Withdrawal Act.** This bill would establish a system to regulate all withdrawals of water in excess of 300,000 gallons per month. A permit, to be issued by the SWCB, would be required for withdrawals in excess of this threshold. The only exemptions from permit requirements would be for agricultural irrigators who use water from a pond which is fed by diffused surface water and has a holding capacity of less than thirty acre-feet, and for withdrawals approved for the Lake Gaston project.

**Bill #2 - Amendments to the Water Use Reporting Exemptions for Crop Irrigation.** Present state law authorizes the SWCB to collect information on the amount of water use in excess of 10,000 gallons per day. However, the Board cannot require crop irrigators to report their consumption. This crop irrigation exemption would be rescinded, enabling the SWCB to obtain a more complete data base on the use of Virginia's water resources.

**Bill #3 - Amendments to the Groundwater Act.** The Groundwater Act of 1973 established procedures for protecting sensitive groundwater areas and directed the SWCB to regulate large withdrawals of groundwater in those areas. The exemptions for agricultural and municipal users would be rescinded, and the threshold for regulation of all users would be set at 10,000 gallons per day.

**Bill #4 - Water Well Standards.** This bill would direct the Board of Housing and Community Development to adopt uniform standards for the construction of water wells to be incorporated into the Uniform Statewide Building Code. These standards would help to ensure the protection of human health and groundwater resources and would be enforced by locally designated inspectors. Existing procedures of the SWCB and the Health Department for monitoring certain well construction projects would continue.

**Bill #5 - Future Reservoir Sites.** This bill contains amendments to existing law which would clarify the authority of local governments and water and sewer authorities to acquire land for future reservoir sites through the power of eminent domain.

### III. PUBLIC HEARINGS

The State Water Commission held eight public hearings to receive public comment on the five draft bills. The initial hearing was held in Fredericksburg followed by hearings in Berryville (Clarke County), Abingdon, Newport News, Virginia Beach, South Hill, Harrisonburg, and Roanoke. An average of sixty to seventy individuals attended each hearing, with approximately one third of those in attendance choosing to testify before the Commission. Based on this testimony, as well as written comments submitted for the record, the following issues and suggestions are listed as representative of the general nature of comments received throughout the public hearing schedule:

#### **Bill #1 - Virginia Water Withdrawal Act**

##### **Those in Favor Stated:**

- Water management problems are beginning to surface and the most effective way to manage water resources is to give the SWCB the authority to require a permit to withdraw water;
- Rather than depending on the present system of case law and the courts to determine questions of water rights, a state administrative process should be established to address such questions;
- A permitting system would enable the Commonwealth to gather more complete information on its water resources; and
- A permitting system will record and establish an individual's right to the use of surface and groundwater.

***Those in Opposition Stated:***

- Too much power and discretion would be vested with the SWCB;
- There is no defined role for local governments to play in the permitting process;
- The riparian doctrine might be significantly limited;
- More information is needed regarding Virginia's water resources before implementing a permitting system;
- The bill does not provide for compensation to localities whose water has been transferred to another area; and
- The bill does not specifically address interbasin issues.

***Bill #2 - Rescinding the Crop Irrigation Exemption***

***Those in Favor Stated:***

- Information on the amount of water withdrawn for crop irrigation is essential if the Commonwealth is to effectively manage its water resources.
- Farmers can easily estimate the amount of water withdrawn and assistance can be provided by agricultural extension agents.

***Those in Opposition Stated:***

- Reporting of crop irrigation in excess of 10,000 gallons per day would represent an undue hardship for farmers.
- Meters may be needed to measure the amount of water being withdrawn which would involve additional costs to the farmer.
- The threshold amount of 10,000 gallons per day should be raised to 1 million gallons per month.

***Bill #3 - Amendments to the Groundwater Act***

***Those in Favor Stated:***

- In order to be able to effectively manage the water resources in groundwater management areas, it is essential that those sectors which are now exempt (i.e., agriculture, municipalities, and industries withdrawing less than 50,000 gallons per day) be subjected to the Act and be required to obtain a permit or certificate of water right;
- The existing system requires the permitting of industrial and commercial users, but the Act is less effective if there is unregulated use by municipalities and agriculture;
- Permitting would establish a right as to the amount of water withdrawn by certain users; and
- Agricultural withdrawals, such as crop irrigation withdrawals, should not be exempted since irrigation often takes place during drought periods when regulation of water uses is more important.

***Those in Opposition Stated:***

- Requiring a permit for withdrawal of groundwater by farmers places an administrative burden on farmers;
- The amount of water withdrawn by farmers is not significant enough to require a permit procedure; and

- "Grandfather clauses" in the bill raise questions as to the effectiveness of the bill.

#### ***Bill #4 - Water Well Standards***

##### ***Those in Favor Stated:***

- Currently, there is fragmentation of responsibility for the inspection and permitting of water wells between the Health Department and the SWCB. Designating the Board of Housing and Community Development as the lead agency for monitoring the construction of water wells would remove unnecessary duplication; and
- Many wells are not properly constructed and several areas have experienced contamination of their groundwater supply which could be due to faulty well construction.

##### ***Those in Opposition Stated:***

- Giving the primary responsibility for establishing uniform standards to the Board of Housing and Community Development would limit the ability of local governments to mandate more stringent well standards;
- Local authorities would be required to enforce the well construction standards and many localities are not prepared to take on this additional responsibility without funding from the state;
- Concern that further fragmentation would occur as a result of three agencies being involved in the process; and
- The Health Department is the most appropriate state authority to regulate well construction.

#### ***Bill #5 - Future Reservoir Sites***

##### ***Those in Favor Stated:***

- There is a need to ensure that localities or water and sewer authorities have the ability to meet their future water needs by authorizing their exercise of the right of eminent domain.

##### ***Those in Opposition Stated:***

- Concern that present law allows localities and water and sewer authorities to go outside their own jurisdictions to condemn land for reservoir sites; and
- Any taking of land should be subject to the approval of the affected jurisdiction and compensation should be made for any anticipated loss of the tax base.

### **IV. ACTIONS TAKEN BY THE STATE WATER COMMISSION**

The Commission held its last meeting for 1985 on December 12 and 13. The State Water Control Board relayed its positions on the five bills. The Commission took consensus votes on the concepts of the bills and then discussed recommendations for changes.

In determining what action should be taken on Bill #1, the Commission considered the response from the public hearings and position of the State Water Control Board. The Commission decided to take no action on proposed Bill #1 in lieu of the SWCB's ongoing program involving the study of water needs in each water basin in Virginia.

Bill #2 was tabled by the Commission and in its place, the Commission recommended that the General Assembly adopt a resolution requesting VPI & SU to have its agriculture extension agents report on water withdrawals for crop irrigation.

Bill #3 was endorsed by the Commission with recommendations that the bill be clarified in

certain areas and that a "sunset provision" as to the rights to operate emergency water supply wells in Suffolk be removed. A proposed amendment to have the exemptions for agricultural uses of groundwater reinstated in the bill, and an amendment to raise the threshold for permitting from 10,000 gallons a day to 35,000 gallons a day failed by vote of the Commission.

Bill #4 was endorsed by the Commission with a recommendation to amend the bill so that the Board of Housing and Community Development would be the lead authority in establishing, administering, and enforcing water well construction standards.

Bill #5 was tabled due to the adverse reaction and misunderstanding measured at the public hearings, and it was the consensus of the Commission that the proposed legislation was not necessary at the time.

Following the votes on these proposed bills, Chairman Parker brought up for discussion a "compromise bill" which he had asked the staff to draft. The draft provided for the establishment of "water management areas" by the SWCB where water problems are identified, and permits would be required in those areas for any withdrawals over 300,000 gallons per month. The Commission voted to hold the "compromise bill" for further consideration.

A joint meeting of the State Water Commission and the State Water Control Board was held on Friday, December 13, 1985. At that time, Richard Burton, Executive Director of the State Water Control Board, remarked on the problems his office has had with adequately managing the waters of the Commonwealth. Chairman Parker described the work session of the Commission that had taken place the day before and listed the Commission's recommendations. A round table discussion between members of the Commission and members of the SWCB resulted in constructive suggestions as to how to better face water issues which arise in the future.

## V. RECOMMENDATIONS

Based on the public hearings and meetings during 1985, the Commission makes the following recommendations:

1. That a resolution be adopted by the 1986 General Assembly which would require VPI & SU extension agents to identify farmers who use 1 million gallons or more a month for crop irrigation and provide information on water use by such farmers to the SWCB. (see Appendix A)
2. That the General Assembly should pass legislation which would remove the language from the Groundwater Act of 1973 exempting agricultural, domestic, and municipal withdrawals of groundwater, and which would require permits for all groundwater withdrawals in those areas over 10,000 gallons per day. (see Appendix B) \*
3. That the General Assembly should pass legislation which would require that minimum standards for the construction of all water wells be adopted, administered, and enforced by the Board of Housing and Community Development as part of the Uniform Statewide Building Code, and which would require the State Water Control Board and the Department of Health to provide assistance in the administration of such standards. (see Appendix C)

Respectfully submitted,

Lewis W. Parker, Jr., Chairman  
Charles J. Colgan, Vice Chairman  
Howard P. Anderson  
J. Paul Councill, Jr.  
James H. Dillard, II  
Louis R. Jones  
Glenn B. McClanan  
Wiley F. Mitchell, Jr.  
William T. Parker  
William P. Robinson  
A. Victor Thomas  
Stanley C. Walker  
George W. Williams, P.E.  
Clifton A. Woodrum  
Millard B. Rice, Jr., Ex-Officio Member  
J. Lewis Rawls, Jr., Ex-Officio Member

\*(Senator Anderson registered his opposition to Recommendation 2)

**1986 SESSION  
ENGROSSED**

HP0656540

**HOUSE JOINT RESOLUTION NO. 161**

House Amendments in [ ] - February 3, 1986

*Requesting Virginia Polytechnic Institute and State University to direct its extension agents to estimate, with the assistance of farmers, the amount of water used for crop irrigation.*

Patrons—Parker, L. W., Robinson, W. P., Thomas, Woodrum, McClanan, Dillard, and Council; Senators: Parker, W. T., Colgan, Walker, Mitchell, and Anderson

Referred to Committee on Agriculture

WHEREAS, § 62.1-44.38 of the Virginia Code states that the State Water Control Board "shall not, by regulation, require registration by users of water for crop irrigation," but may collect such information on a voluntary basis; and

WHEREAS, voluntary registration under this section by users of water for crop irrigation has not provided sufficient data for development of area wide and basin water plans; and

WHEREAS, the reporting of the amount of water used for crop irrigation is [ essential essential] if the Commonwealth is to effectively manage its water resources; and

WHEREAS, VPI & SU extension agents are presently providing information and technical assistance to Virginia's farmers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That VPI & SU is requested to direct its extension agents to identify those farmers whose water use for crop irrigation exceeds [ a daily average of ] 1 million gallons for any single month and, with the assistance of those farmers, estimate their average daily water use for crop irrigation and provide such information to the State Water Control Board on an annual basis; and, be it

RESOLVED FURTHER, That the Clerk of the House [of Delegates] prepare a copy of this resolution to be [ delivered presented] to the President of Virginia Polytechnic Institute and State University.

Official Use By Clerks	
<b>Agreed to By</b>	<b>Agreed to By The Senate</b>
The House of Delegates	
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
substitute w/amdt <input type="checkbox"/>	substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____	_____
Clerk of the House of Delegates	Clerk of the Senate



APPENDIX B  
1986 SESSION

HOUSE BILL NO. 561

Offered January 21, 1986

A BILL to amend and reenact §§ 62.1-44.85, 62.1-44.87, 62.1-44.90, 62.1-44.91, 62.1-44.93, 62.1-44.96, 62.1-44.97, 62.1-44.98, 62.1-44.99, 62.1-44.100 and 62.1-44.106 of the Code of Virginia, pertaining to groundwater withdrawal in groundwater management areas.

Patrons—Parker, L. W., Robinson, W. P., Woodrum, McClanan, and Dillard; Senators: Parker, W. T., Colgan, Walker, and Mitchell

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.85, 62.1-44.87, 62.1-44.90, 62.1-44.91, 62.1-44.93, 62.1-44.96, 62.1-44.97, 62.1-44.98, 62.1-44.99, 62.1-44.100 and 62.1-44.106 of the Code of Virginia are amended and reenacted as follows:

§ 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, re-perforating, 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 *withdrawals*.

(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 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

1 include wells drilled for the purpose of exploration or production of oil or gas, for building  
2 foundation investigation and construction, elevator shafts, grounding of electrical apparatus,  
3 or for geophysical investigation; and provided further, that the actual construction and prior  
4 and subsequent details for such wells shall be subject to observation and investigation by  
5 authorized personnel to determine relationships between such drilled wells and quality and  
6 volume of groundwater.

7 § 62.1-44.87. Withdrawals for which certificate of groundwater right, permit or  
8 registration statement not required.—No certificate of groundwater right, permit or  
9 registration statement authorized by this chapter shall be required for the use or supplying  
10 of groundwater for agricultural and livestock watering purposes, for human consumption or  
11 domestic purposes, or for any single industrial or commercial purpose in an amount not  
12 exceeding fifty thousand *any water withdrawal of less than 10,000* gallons a day. The use  
13 of groundwater for any such purpose to the extent that it is applied to a beneficial use  
14 constitutes a right to use groundwater equal to that established by a certificate of  
15 groundwater right issued under the provisions of this chapter. Further, no certificate of  
16 groundwater right, permit or registration statement shall be required for the beneficial use  
17 *withdrawal* of groundwater in any groundwater area which has not been declared a  
18 groundwater management area.

19 § 62.1-44.90. Board may require information from persons withdrawing groundwater.—  
20 The Board may require any person using *withdrawing* groundwater for any purpose in any  
21 groundwater area, whether or not declared to be a groundwater management area, to  
22 furnish information with regard to such groundwater *withdrawal* and the use thereof.

23 § 62.1-44.91. Agreements among persons withdrawing groundwater.—In the administration  
24 of this chapter, the Board may encourage, promote and recognize voluntary agreements  
25 among *persons withdrawing* groundwater users in the same groundwater management area.  
26 When the Board finds that any such agreement, executed in writing and filed with the  
27 Board is consistent with the intent, purposes and requirements of this chapter, the Board  
28 shall approve the agreement, and thereafter such agreement, until terminated, shall control  
29 in lieu of a formal order, rule or regulation of the Board under the provisions of this  
30 chapter.

31 Any agreement approved by the Board shall be subject to termination by the Board if  
32 the Board finds that it or its effect is inconsistent with the intent, purposes and  
33 requirements of this chapter.

34 § 62.1-44.93. Rights of persons withdrawing groundwater on date area is declared to be  
35 a groundwater management area or within two years before.—(a) There is hereby  
36 recognized and preserved the right of persons within groundwater management areas to  
37 continue to ~~apply~~ *withdraw* groundwater to beneficial uses to the *following* extent of their  
38 ~~beneficial uses thereof~~ :

39 1. *In the case of persons subject to the certification, permit and registration*  
40 *requirements of this chapter before July 1, 1986, the right shall be to the extent of the*  
41 *daily withdrawal of groundwater on the date such area is declared a groundwater*  
42 *management area or on any date within two years prior to such date.*

43 2. *In the case of persons in declared groundwater management areas made subject to*  
44 *the certificate, permit and registration requirements of this chapter pursuant to the*  
45 *amendments to § 62.1-44.87 adopted by the 1986 Session of the General Assembly, such*  
46 *right shall be to the extent of the maximum monthly and average yearly withdrawal for*  
47 *the twenty-four calendar month period prior to January 1, 1986, except as provided in §*  
48 *62.1-44.93 (c).*

49 (b) Any person engaged in good faith at the time ~~the~~ *in the construction, alteration,*  
50 *rehabilitation or extension of a well for the withdrawal of groundwater on the date or*  
51 *within two years prior to the date a groundwater area is declared to be a groundwater*  
52 *management area, in the construction, alteration, rehabilitation or extension of a well for,*  
53 *the application of groundwater to beneficial uses or for those in an existing groundwater*  
54 *management area made subject to the certificate, permit and registration requirements of*

1 *this chapter on July 1, 1986, shall* , upon the completion thereof within a reasonable time  
 2 fixed by the Board, ~~shall~~ be recognized by the Board as having a right to use *withdraw*  
 3 groundwater to the extent of the ~~intended beneficial uses thereof~~ *design capacity of the*  
 4 *groundwater withdrawal facilities* .

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

11 (d) *Notwithstanding any provisions of law to the contrary, each public water supply*  
 12 *well constructed in the Southeastern Virginia Groundwater Management Area prior to July*  
 13 *1, 1986, to provide supplemental water during water shortages may, as a matter of right,*  
 14 *be operated to withdraw groundwater at a rate not to exceed its design capacity. A*  
 15 *registration statement may be filed with respect to any such well by January 1, 1987, and*  
 16 *upon recording such registration statement, the Board shall issue to the registrant a*  
 17 *certificate of groundwater right in the amount of design capacity of the well as evidence*  
 18 *that the registration is complete.*

19 (e) *In the event a jurisdiction elects to utilize any of the wells covered by (d) of this*  
 20 *section for continuing production of water when no water shortage exists, it shall make*  
 21 *application for a permitted withdrawal as provided in § 62.1-44.100.*

22 § 62.1-44.96. Declaration that area is a groundwater management area.—(a) If, after  
 23 public hearing, the Board finds that any of the circumstances set forth in subsection (a) of  
 24 § 62.1-44.95 are true and further finds that the public welfare, health and safety require  
 25 that any one or more corrective controls be adopted, the Board shall by order declare the  
 26 area in question to be a groundwater management area. The Board shall mail a copy of  
 27 such order to the mayor or chairman of the governing body of each county, city or town  
 28 within which any part of such area lies and of each county, city or town having the right  
 29 to make substantial ~~beneficial uses~~ *withdrawals* of groundwater from such area.

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

35 § 62.1-44.97. Withdrawal of groundwater, construction of well, etc., in groundwater  
 36 management area.—After an area has been declared to be a groundwater management area  
 37 by an order of the Board, no person shall use *withdraw* or attempt to use *withdraw* any  
 38 groundwater, construct or attempt to construct any well or operate or allow operation of  
 39 any well owned or controlled by such person, except for ~~those uses~~ *withdrawals* exempted  
 40 under § 62.1-44.87 and those with rights recognized under § 62.1-44.93, without a permit or  
 41 certificate of groundwater right.

42 § 62.1-44.98. Advisory committee of residents of groundwater management area.—After  
 43 declaration by the Board of any groundwater management area, an advisory committee  
 44 made up of residents of each county, city or town lying partially or wholly in the  
 45 groundwater management area and of each county, city or town having the right to make  
 46 substantial ~~beneficial uses~~ *withdrawals* of groundwater from such area may be established  
 47 in order to advise the Board on the implementation of plans and procedures for the  
 48 control of groundwater in groundwater management areas. The committee shall be guided  
 49 by the provisions of this chapter without responsibility or authority with respect to  
 50 enforcement of such provisions, and it may call upon the Board for assistance with  
 groundwater problems within its respective area.

51 § 62.1-44.99. Registration statements to be filed by persons withdrawing groundwater in  
 52 groundwater management areas; issuance of certificates of groundwater rights.—(a) Within  
 53 six months after a groundwater management area declaration by the Board, any person  
 54

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

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

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

11 (d) If, upon examination by the Board, the registration statement is found to be  
12 defective, the statement shall be returned for remedy of the defect. The date of and the  
13 reasons for the return shall be endorsed on the statement and the endorsement shall be  
14 made a record in the office of the Board. No statement shall lose its standing under §  
15 62.1-44.93 on account of any such defect, providing a proper statement is filed in the office  
16 of the Board within thirty days from the date of the return, or such further time, not  
17 exceeding one year, as may be allowed by the Board.

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

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

35 § 62.1-44.100. Permit to withdraw groundwater.—(a) Any person intending to acquire  
36 *withdraw* or enlarge a use *withdrawal* of groundwater within a groundwater management  
37 area, except for any purpose *withdrawals* exempt under § 62.1-44.87, shall apply to the  
38 Board for and receive a permit before constructing, rehabilitating, altering or extending a  
39 well or before using *withdrawing* the groundwater. The application for a permit shall be  
40 on a form prescribed by the Board and shall contain such information consistent with this  
41 chapter as the Board deems necessary.

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

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

52 (d) When an application discloses the probability of wasteful use or undue interference  
53 with existing wells or that any proposed use of a well *withdrawal of groundwater* will  
54 impair or substantially interfere with existing rights to use *withdraw* groundwater by

1 others, the Board may impose conditions or limitations in the permit to prevent such  
2 interference or reject the application after a hearing.

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

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

16 (g) Immediately after action by the Board pursuant to subsection (f) of this section, the  
17 Board shall cause to be published in at least one issue each week for at least two  
18 consecutive weeks in a newspaper of general circulation in the area where the application  
19 for permit pertains, a notice of such application, and the time and place of the Board's  
20 meeting at which the application will be considered. The notice shall be published first no  
21 later than twenty-one days nor earlier than twenty-eight days prior to the meeting of the  
22 Board to consider the application.

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

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

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

39 § 62.1-44.106. Procedure for hearings; judicial review.— The following provisions shall be  
40 followed in connection with hearings pursuant to this chapter:

41 (1) Notice shall be given not less than thirty days before the date of such hearing and  
42 shall state the date, time, and place of hearing, the subject of the hearing, and the action  
43 which the Board proposes to take. The notice shall either include details of such proposed  
44 action, or where such proposed action is too lengthy for publication, the notice shall specify  
45 that copies of such detailed proposed action shall be obtained on request from the office of  
46 the Board in sufficient quantities to satisfy the request of all interested persons.

47 (2) Notice of the hearing shall be published in at least one issue each week for at least  
48 two consecutive weeks in at least one newspaper of general circulation in each county, city  
49 and town of the Commonwealth in which the affected groundwater area or any portion  
50 thereof is located, and a copy of such notice shall be mailed to the mayor or chairman of  
51 the governing body of each county, city or town within the affected groundwater area and  
52 of each county, city or town having the right to make substantial ~~beneficial uses~~  
53 withdrawals of groundwater from such area and to each person who has been made a  
54 party to any hearing called under this chapter.

1 (3) Any person having a right to use *withdraw* groundwater in a groundwater  
2 management area desiring to be heard at any such public hearing shall give notice thereof  
3 in writing to the Board on or before the first date set for the hearing. The Board is  
4 authorized to set reasonable time limits for the oral presentation of views by any one  
5 person at any such public hearing. The Board shall permit any person who so desires to  
6 file a written argument or other statement with the Board in relation to any proposed  
7 action of the Board any time within thirty days following the conclusion of any public  
8 hearing or within any such additional time as the Board may allow by notice given as  
9 prescribed in this section.

10 (4) All hearings under this chapter shall be before the Board, or before one or more of  
11 its own members or before one or more of its own qualified employees, and shall be open  
12 to the public. Any member or employee of the Board to whom a delegation of power is  
13 made to conduct a hearing shall report the hearing with its evidence or record to the  
14 Board for decision.

15 (5) Oral and documentary evidence shall be taken at the public hearing and the  
16 procedures shall be such as to secure a full, fair and orderly proceeding and to permit all  
17 relevant evidence to be received. A full and complete record of all proceedings at any  
18 hearing under this chapter shall be taken by a reporter appointed by the Board and any  
19 party to a proceeding shall be entitled to a copy of such record upon the payment of the  
20 reasonable cost thereof as determined by the Board.

21 (6) The Board, or the designated representative of such Board, may administer oaths  
22 and may issue subpoenas for the attendance of witnesses and the production of books,  
23 papers and other documents belonging to the said person.

24 (7) Subpoenas issued by the Board, in connection with any hearing under the chapter  
25 shall be directed to any officer authorized by law to serve process, and the further  
26 procedures and rules of law applicable with respect thereto shall be prescribed in  
27 connection with subpoenas to the same extent as if issued by a court of record. In case of  
28 a refusal to obey a subpoena issued by the Board, application may be made to the circuit  
29 court of the appropriate county or city for enforcement thereof.

30 (8) The burden of proof at any hearing under this chapter shall be upon the person or  
31 the Board, as the case may be, at whose instance the hearing is being held.

32 (9) No decision or order of the Board shall be made in any proceeding unless the  
33 same is supported by competent, material and substantial evidence upon consideration of  
34 the whole record.

35 (10) Following any hearing, the Board shall afford the parties thereto a reasonable  
36 opportunity to submit within thirty days, or within such additional time as prescribed by  
37 the Board, proposed findings of fact and conclusions of law and any brief in connection  
38 therewith.

39 (11) Upon completion of hearings and consideration of submitted evidence and  
40 arguments with respect to any proposed action by the Board pursuant to this chapter, the  
41 Board shall adopt its final action with respect thereto and shall publish such final action as  
42 part of its official regulations. The Board is empowered to modify or to revoke from time  
43 to time any final action previously taken by it pursuant to the provisions of this chapter,  
44 any such modification or revocation, however, to be subject to the procedural requirements  
45 of this chapter, including notice and hearing.

46 (12) All orders and decisions of the Board shall set forth separately the Board's  
47 findings of fact and conclusions of law and shall, wherever necessary, cite the appropriate  
48 provision of law or other source of authority on which any action or decision of the Board  
49 is based.

50 (13) (a) Any party to a proceeding aggrieved by, or any freeholder or lessee adversely  
51 affected by, or any political subdivision which may be adversely affected by any final  
52 order or decision of the Board shall have a right to appeal to the circuit court of the  
53 county or city wherein his well is located within thirty days after such order or decision  
54 has become final. Upon such appeal the Board shall send a certified transcript of all

1 testimony and exhibits introduced before the Board, the order or decision and the notice of  
2 appeal to such circuit court.

3 (b) Judicial review shall be in accord with the provisions of Article 4 (§ 9-6.14:15 et  
4 seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia, except that the circuit court shall  
5 modify or reverse the order or decision of the Board or remand the case for further  
6 proceedings:

7 (1) If the order or decision of the Board will not adequately achieve the policy and  
8 standards of this chapter or will not reasonably accommodate any guidelines which may  
9 have been promulgated by the Board; or

10 (2) If the substantial rights of the appellant have been prejudiced because the findings,  
11 conclusions or decisions are:

- 12 (a) In violation of constitutional provisions; or
- 13 (b) In excess of statutory authority of jurisdiction of the Board; or
- 14 (c) Made upon unlawful procedure; or
- 15 (d) Affected by other error of laws; or
- 16 (e) Unsupported by the evidence on the record considered as a whole; or
- 17 (f) Arbitrary, capricious, or an abuse of discretion.

18 (3) From the final decision of the circuit court an appeal may be taken to the Court of  
19 Appeals as provided in § 17-116.05.

20 No bond shall be required of the Board in appeals to the Court of Appeals.

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

24 (15) Within fifteen days after receipt of copy of certified transcript and exhibits, any  
25 party may file with the court exceptions to the accuracy or omissions of any evidence or  
26 exhibits included in or excluded from said *the* transcript.

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<b>Official Use By Clerks</b>	
<b>Passed By</b>	<b>Passed By The Senate</b>
<b>The House of Delegates</b>	
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with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
substitute w/amdt <input type="checkbox"/>	substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____ Clerk of the House of Delegates	_____ Clerk of the Senate

APPENDIX C  
1986 SESSION

LD0658540

**HOUSE BILL NO. 560**

Offered January 21, 1986

*A BILL to amend and reenact §§ 32.1-164, 36-97, 62.1-44.85, 62.1-44.92, 62.1-44.97 and 62.1-44.100 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 32.1-172.1, 36-98.01 and 62.1-44.101:1; and to repeal § 62.1-44.101 of the Code of Virginia, the amended, added and repealed sections relating to water well construction standards.*

Patrons—Parker, L. W., Robinson, W. P., Thomas, Woodrum, McClanan, Dillard, and Council; Senators: Parker, W. T., Colgan, Walker, Mitchell, and Anderson

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-164, 36-97, 62.1-44.85, 62.1-44.92, 62.1-44.97 and 62.1-44.100 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-172.1, 36-98.01 and 62.1-44.101:1 as follows:

§ 32.1-164. Powers and duties of Board; regulations.—A. The Board shall have supervision and control over the safe and sanitary collection, conveyance, transportation, treatment and disposal of sewage, all sewerage systems and treatment works as they affect the public health and welfare. The regulation of sewage, as it may affect the public health, shall be primarily the responsibility of the Board and, in cases to which the provisions of Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia are applicable, the joint responsibility of the Board and the State Water Control Board in accordance with such chapter.

B. The regulations of the Board shall govern the collection, conveyance, transportation, treatment and disposal of sewage. Such regulations shall be designed to protect the public health and promote the public welfare and may include, without limitation:

1. A requirement that the owner obtain a permit from the Commissioner prior to the construction, installation, modification or operation of a sewerage system or treatment works except in those instances where a permit is required pursuant to Chapter 3.1 of Title 62.1 of the Code of Virginia.

2. Criteria for the granting or denial of such permits.

3. Standards for the design, construction, installation, modification and operation of sewerage systems and treatment works.

4. Standards governing disposal of sewage on or in soils.

5. Standards specifying the minimum distance between sewerage systems or treatment works and:

(a) Public and private wells supplying water for human consumption

(b) Lakes and other impounded waters

(c) Streams and rivers

(d) Shellfish waters

(e) Groundwaters

(f) Areas and places of human habitation

(g) Property lines.

6. Standards as to the adequacy of an approved water supply and the siting of wells prior to the issuance of a septic tank permit, provided that no permit shall be required for the installation of private wells .

7. Standards governing the transportation of sewage.

8. A prohibition against the discharge of untreated sewage onto land or into waters of the Commonwealth.

9. A requirement that such residences, buildings, structures and other places designed for human occupancy as the Board may prescribe be provided with a sewerage system or treatment works.



1 § 32.1-172.1. *Construction of public water supply wells.*—Notwithstanding other  
2 provisions at this article, the construction, alteration, repair or improvement of public  
3 water supply wells shall be subject to the well construction provisions of the Uniform  
4 Statewide Building Code and a permit for such construction must be obtained as required  
5 by § 36-98.01 of the Code of Virginia.

6 § 36-97. Definitions.—As used in this chapter, unless the context or subject matter  
7 requires otherwise, the following words or terms shall have the meaning herein ascribed to  
8 them, respectively:

9 (1) "Board" means the Board of Housing and Community Development.

10 (2), (3) [Repealed.]

11 (4) "Review Board" means the State Building Code Technical Review Board.

12 (5) "Building Code" means the Uniform Statewide Building Code.

13 (6) "Code provisions" means the provisions of the Uniform Statewide Building Code as  
14 adopted and promulgated by the Board, and the amendments thereof as adopted and  
15 promulgated by such Board from time to time.

16 (7) "Building regulations" means any law, rule, resolution, regulation, ordinance or code,  
17 general or special, or compilation thereof, heretofore or hereafter enacted or adopted by  
18 the State or any county or municipality, including departments, boards, bureaus,  
19 commissions, or other agencies thereof, relating to construction, reconstruction, alteration,  
20 conversion, repair, maintenance, or use of structures and buildings and installation of  
21 equipment therein. The term does not include zoning ordinances or other land use controls  
22 that do not affect the manner of construction or materials to be used in the erection,  
23 alteration or repair of a building or structure.

24 (8) "Municipality" means any city or town in this *State Commonwealth* .

25 (9) "Local governing body" means the governing body of any city, county or town in  
26 this *State Commonwealth* .

27 (10) "Local building department" means the agency or agencies of any local governing  
28 body charged with the administration, supervision, or enforcement of building codes and  
29 regulations, approval of plans, inspection of buildings, or issuance of permits, licenses,  
30 certificates or similar documents prescribed or required by *State state* or local building  
31 regulations.

32 (11) "State agency" means any state department, board, bureau, commission, or agency  
33 of this *State Commonwealth* .

34 (12) "Building" means a combination of any materials, whether portable or fixed,  
35 having a roof to form a structure for the use or occupancy by persons, or property;  
36 provided, however, that farm buildings not used for residential purposes and frequented  
37 generally by the owner, members of his family, and farm employees shall be exempt from  
38 the provisions of the Uniform Statewide Building Code, but such buildings lying within flood  
39 plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide  
40 regulations, as applicable. The word "building" shall be construed as though followed by  
41 the words "or part or parts thereof" unless the context clearly requires a different  
42 meaning.

43 (13) "Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and  
44 refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions  
45 or installations.

46 (14) "Construction" means the construction, reconstruction, alteration, repair or  
47 conversion of buildings.

48 (15) "Owner" means the owner or owners of the freehold of the premises or lesser  
49 estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor,  
50 trustee, lessee or other person, firm or corporation in control of a building.

51 (16) [Repealed.]

52 (17) "Director" means the Director of the Department of Housing and Community  
53 Development.

54 (18) "Structure" means an assembly of materials forming a construction for occupancy

1 or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings,  
 2 observation towers, radio towers, water tanks, *water wells*, trestles, piers, wharves,  
 3 swimming pools, amusement devices, storage bins, and other structures of this general  
 4 nature ; ~~provided, however, that~~ . *Except for water wells*, farm structures not used for  
 5 residential purposes shall be exempt from the provisions of the Uniform Statewide Building  
 6 Code, but such structures lying within a flood plain or in a mudslide-prone area shall be  
 7 subject to flood proofing regulations or mudslide regulations, as applicable. The word  
 8 "structure" shall be construed as though followed by the words "or part or parts thereof"  
 9 unless the context clearly requires a different meaning.

10 (19) "Department" means the Department of Housing and Community Development.

11 *§ 36-98.01. Board to promulgate water well construction standards.—The Building Code*  
 12 *shall include provisions pertaining to the location and construction of all water wells in*  
 13 *the Commonwealth and the Board is hereby empowered to adopt regulations to that*  
 14 *effect. The regulations shall require that all water wells be constructed and maintained in*  
 15 *a condition whereby the well is not a source or channel of contamination of groundwater*  
 16 *or any aquifer. These regulations shall also include, but not be limited to, standards*  
 17 *designed to prevent the migration of surface water to groundwater.*

18 *Notwithstanding the provisions of § 36-98, the Board shall prescribe rules and*  
 19 *regulations for the construction of public water supply wells; water wells sited near septic*  
 20 *tanks, sewerage systems and treatment works; and water wells in groundwater*  
 21 *management areas.*

22 *The regulations of the Board shall require that a permit be obtained in order for any*  
 23 *person to construct a water well in the Commonwealth.*

24 *The Department of Health and the State Water Control Board shall cooperate with the*  
 25 *Board in the promulgation of the well construction regulations. The Board may enter into*  
 26 *cooperative agreements for the administration and enforcement of these regulations with*  
 27 *either or both of these agencies.*

28 *§ 62.1-44.85. Definitions.—As used in this chapter, unless the context requires otherwise:*

29 (1) "Altering or rehabilitating or extending" means the deepening, recasing,  
 30 reperforming, the installation of packers or seals and other material changes in the  
 31 construction design of a well.

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

35 (3) "Board" means the State Water Control Board.

36 (4) "Certificate of groundwater right" means a document issued by the Board  
 37 evidencing the right to use groundwater.

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

40 (6) [Repealed.]

41 (6a) "Groundwater management area" means a geographically defined groundwater  
 42 area in which the Board has deemed the levels, supply or quality of groundwater to be  
 43 adverse to public welfare, health and safety.

44 (7) "Department" means the ~~State Health~~ *Department of Health* .

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

50 (9) "Groundwater area" means a geographical region designated by the Board as a  
 51 groundwater unit for purposes of administering the provisions of this chapter.

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

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

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

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

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

19 § 62.1-44.92. Rules of Board.—In the administration of this chapter, the Board shall, after  
20 public hearings pursuant to § 62.1-44.106 herein, adopt rules governing procedures with  
21 respect to:

22 (1) Registration statements, permits and certificates of groundwater rights;

23 (2) Collection of fees for administration of this chapter;

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

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

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

33 (6) Prescribing and enforcing uniform standards and methods jointly with the  
34 Department for the abandonment of water wells;

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

37 (8) Prosecuting jointly with the Department actions and suits to enjoin violations of this  
38 chapter;

39 (9) Other matters consistent with this chapter as the Board deems necessary.

40 § 62.1-44.97. Use of groundwater, construction of well, etc., in groundwater management  
41 area.—After an area has been declared to be a groundwater management area by an order  
42 of the Board, no person shall use or attempt to use any groundwater, ~~construct or attempt~~  
43 ~~to construct any well~~ or operate or allow operation of any well owned or controlled by  
44 such person, except for those uses exempted under § 62.1-44.87 and those with rights  
45 recognized under § 62.1-44.93, without a permit or certificate of groundwater right.

46 § 62.1-44.100. Permit to acquire or enlarge use of groundwater in groundwater  
47 management area.—(a) Any person intending to acquire or enlarge a use of groundwater  
48 within a groundwater management area, except for any purpose exempt under § 62.1-44.87,  
49 shall apply to the Board for and receive a permit ~~before constructing, rehabilitating,~~  
50 ~~altering or extending a well or~~ before using the groundwater. The application for a permit  
51 shall be on a form prescribed by the Board and shall contain such information consistent  
52 with this chapter as the Board deems necessary.

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

1 application in a book kept for that purpose.

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

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

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

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

26 (g) Immediately after action by the Board pursuant to subsection (f) of this section, the  
27 Board shall cause to be published in at least one issue each week for at least two  
28 consecutive weeks in a newspaper of general circulation in the area where the application  
29 for permit pertains, a notice of such application, and the time and place of the Board's  
30 meeting at which the application will be considered. The notice shall be published first no  
31 later than twenty-one days nor earlier than twenty-eight days prior to the meeting of the  
32 Board to consider the application.

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

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

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

48 *§ 62.1-44.101:1. Construction of well.—No person shall begin the construction, alteration,*  
49 *rehabilitation or extension of any well within or without a groundwater management area*  
50 *until such person applies for and receives a well construction permit as required in §*  
51 *36-98.01 of the Code of Virginia.*

52 2. That § 62.1-44.101 of the Code of Virginia is repealed.

53 3. That the provisions of this act shall become effective on July 1, 1987.

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Official Use By Clerks	
<b>Passed By</b>	
<b>The House of Delegates</b>	<b>Passed By The Senate</b>
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
substitute w/amdt <input type="checkbox"/>	substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____	_____
Clerk of the House of Delegates	Clerk of the Senate





