

HOUSE BILL NO. 589

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources  
on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Simonds)

*A BILL to amend and reenact § 62.1-44.38 of the Code of Virginia, relating to certain data from water users;  
water use consumption of data centers.*

**Be it enacted by the General Assembly of Virginia:**

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

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

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

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

31 water supply shortfalls; and (vii) evaluate hydrologic, environmental, economic, social, legal, jurisdictional,  
32 and other aspects of each alternative management strategy identified.

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

39 3. When preparing drought evaluation and response plans pursuant to subdivision 1, the Board shall  
40 recognize the localities that include any portion of the service area of a water supply utility in the  
41 Commonwealth that uses the Potomac River as a water supply source as a distinct drought evaluation region.  
42 Such plans shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought  
43 Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions,  
44 and messages for the Potomac River drought evaluation region. Nothing in this subdivision regarding the  
45 incorporation of such provisions shall be construed to limit the authority of the Governor during a declared  
46 drought emergency.

47 C. The Board may, by regulation, require each water user withdrawing surface or subsurface water or both  
48 during each year to register, by a date to be established by the Board, water withdrawal and use data for the  
49 previous year including the estimated average daily withdrawal, maximum daily withdrawal, sources of water  
50 withdrawn, and volume of wastewater discharge, provided that the withdrawal exceeds one million gallons in  
51 any single month for use for crop irrigation, or that the daily average during any single month exceeds 10,000  
52 gallons per day for any other user. Location data shall be provided by each user in a coordinate system  
53 specified by the Board. *Any water user required to register water withdrawal and use data pursuant to this*  
54 *subsection that provides water to a data center, as that term is defined in subdivision A 43 of § 58.1-3506,*  
55 *with an air permit issued by the Department shall report to the Board the total volume of water, including the*  
56 *portion that is reclaimed water, provided during each month to a data center during the reporting period;*  
57 *however, if water provided to a data center is not measured on a monthly basis, the amount provided during*  
58 *each quarter shall be provided.*

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

61 committee membership for branches or agencies of the federal government, branches or agencies of the  
62 Commonwealth, branches or agencies of the government of any state in a river basin located within that state  
63 and Virginia, the political subdivisions of the Commonwealth, and all persons and corporations interested in  
64 or directly affected by any proposed or existing plan or program.

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

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

75 **2. That the provisions of this act shall become effective on January 1, 2027.**