

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 62.1-44.38 of the Code of Virginia, relating to certain data from water users;*
 3 *water use consumption for domestic, commercial, and industrial purposes and from data centers.*

4 [S 553]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 62.1-44.38 of the Code of Virginia is amended and reenacted as follows:**8 **§ 62.1-44.38. Plans and programs; registration of certain data by water users; advisory committees;**
 9 **committee membership for federal, state, and local agencies; water supply planning assistance.**

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

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

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

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

45 C. The Board may, by regulation, require each water user withdrawing surface or subsurface water or both
 46 during each year to register, by a date to be established by the Board, water withdrawal and use data for the
 47 previous year including the estimated average daily withdrawal, maximum daily withdrawal, sources of water
 48 withdrawn, and volume of wastewater discharge, provided that the withdrawal exceeds one million gallons in
 49 any single month for use for crop irrigation, or that the daily average during any single month exceeds 10,000
 50 gallons per day for any other user. Location data shall be provided by each user in a coordinate system
 51 specified by the Board. *Any water user required to register water withdrawal and use data pursuant to this*
 52 *subsection that provides water to another person offsite shall include in its report, submitted on its regular*
 53 *reporting schedule, the total volume of potable water and, reported separately, the total volume of reclaimed*
 54 *water provided during each month for each of the following categories: (i) a data center, as that term is*
 55 *defined in subdivision A 43 of § 58.1-3506, with an air permit issued by the Department and (ii) to the extent*
 56 *available without utility billing system modifications, (a) domestic purposes, (b) commercial and industrial*

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57 *purposes, separately or combined as available, and (c) all other non-categorized purposes. Where monthly*
58 *data is not available, such data may be submitted based on the total volumes provided during each quarter.*
59 *For purposes of this subsection "reclaimed water" means water that has been treated and repurposed from*
60 *wastewater or non-potable sources. Reclaimed water volumes shall not be aggregated with potable water*
61 *volumes in any public reporting, summary, or planning document produced by the Board pursuant to this*
62 *section.*

63 D. The Board shall establish advisory committees to assist it in the formulation of such plans or programs
64 and in formulating recommendations called for in subsection E. In this connection, the Board may include
65 committee membership for branches or agencies of the federal government, branches or agencies of the
66 Commonwealth, branches or agencies of the government of any state in a river basin located within that state
67 and Virginia, the political subdivisions of the Commonwealth, and all persons and corporations interested in
68 or directly affected by any proposed or existing plan or program.

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

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

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