

HOUSE BILL NO. 49

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Fariss)

A BILL to amend and reenact §§ 10.1-408 and 10.1-413 of the Code of Virginia, relating to James State Scenic River.

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

**1. That §§ 10.1-408 and 10.1-413 of the Code of Virginia are amended and reenacted as follows:**

**§ 10.1-408. Uses not affected by scenic river designation.**

A. Except as provided in § 10.1-407, all riparian land and water uses along or in the designated section of a river that are permitted by law shall not be restricted by this chapter.

B. Designation as a scenic river shall not be used:

1. To designate the lands along the river and its tributaries as unsuitable for mining pursuant to § 45.2-1028 or regulations promulgated with respect to such section, or as unsuitable for use as a location for a surface mineral mine as defined in § 45.2-1101; however, the Department shall still be permitted to exercise the powers granted under § 10.1-402; or

2. To be a criterion for purposes of imposing water quality standards under the federal Clean Water Act.

C. Nothing in this chapter shall preclude the federal government, the Commonwealth, or a locality or local governing body from using, constructing, reconstructing, replacing, repairing, operating, or performing necessary maintenance on any road or bridge.

D. Nothing in § 10.1-413, 10.1-414, or 10.1-418.6 shall preclude the Commonwealth or a local governing body or authority from constructing, reconstructing, operating, or performing necessary maintenance on any transportation or public water supply project.

E. Nothing in this chapter shall preclude the continued:

27 1. Use, operation, and maintenance of the existing Loudoun County Sanitation Authority water  
28 impoundment or the installation of new water intake facilities in the existing reservoir located within the  
29 section of Goose Creek designated by § 10.1-411;

30 2. Operation and maintenance of existing dams in the section of the Rappahannock River  
31 designated by § 10.1-415;

32 3. Operation, maintenance, alteration, expansion, or destruction of the Embrey Dam or its  
33 appurtenances by the City of Fredericksburg, including the old VEPCO canal and the existing City  
34 Reservoir behind the Embrey Dam, or any other part of the City's waterworks; or

35 4. Operation and maintenance of existing dams in the section of the Clinch River designated by §  
36 10.1-410.2.

37 F. The City of Richmond shall be allowed to reconstruct, operate, and maintain existing facilities  
38 at the Byrd Park and Hollywood Hydroelectric Power Stations at current capacity. Nothing in this chapter  
39 shall be construed to prevent the Commonwealth, the City of Richmond, or any common carrier railroad  
40 from constructing or reconstructing floodwalls or public common carrier facilities that may traverse the  
41 section of the James River designated by § 10.1-412, such as road or railroad bridges, raw water intake  
42 structures, or water or sewer lines that would be constructed below water level.

43 G. The owner of the Harvell Dam in the City of Petersburg may construct, reconstruct, operate,  
44 and maintain the Harvell Dam subject to other law and regulation.

45 H. Nothing in this chapter shall preclude the Commonwealth, the City of Fredericksburg, or ~~the~~  
46 ~~County of Stafford, Spotsylvania, or Culpeper, Spotsylvania, or Stafford County~~ from constructing any  
47 new raw water intake structures or devices, including pipes and reservoirs but not dams, or laying water  
48 or sewer lines below water level.

49 I. Nothing in this chapter shall:

50 1. Preclude the construction, operation, repair, maintenance, or replacement of (i) a natural gas  
51 pipeline for which the State Corporation Commission has issued a certificate of public convenience and  
52 necessity or any connections with such pipeline owned by the Richmond Gas Utility and connected to

53 such pipeline or (ii) the natural gas pipeline, case number PUE 860065, for which the State Corporation  
54 Commission has issued a certificate of public convenience and necessity; or

55 2. Be construed to prevent the construction, use, operation, and maintenance of a natural gas  
56 pipeline (i) traversing the portion of the river designated by § 10.1-411.1 at, or at any point north of, the  
57 existing power line that is located approximately 200 feet north of the northern entrance to the Swede  
58 Tunnel or (ii) on or beneath the two existing railroad trestles, one located just south of the Swede Tunnel  
59 and the other located just north of the confluence of the Guest River with the Clinch River, or to prevent  
60 the use, operation, and maintenance of such railroad trestles in furtherance of the construction, operation,  
61 use, and maintenance of such pipeline.

62 **§ 10.1-413. James State Scenic River.**

63 The James River in Botetourt and Rockbridge Counties, including the Towns of Buchanan and  
64 Glasgow, from its origination at the confluence of the Jackson and Cowpasture Rivers running  
65 approximately 59 miles southeastward to the Rockbridge-Amherst-Bedford County line and the James  
66 River in Nelson, Appomattox, Albemarle, Buckingham, and Fluvanna Counties from one mile upstream  
67 ~~of Warren boat ramp running approximately 20 miles to New Canton~~ the confluence of Allens Creek  
68 running approximately 57 miles to Stearnes are hereby designated as the James State Scenic River,  
69 components of the Virginia Scenic Rivers System.

70 **2. That the provisions of Chapter 4 (§ 10.1-400 et seq.) of Title 10.1 of the Code of Virginia shall not**  
71 **apply prior to July 1, 2027, to any water supply project undertaken by a locality or authority within**  
72 **the portion of the James State Scenic River designated as a state scenic river pursuant to this act.**

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