

House Bill 237

By: Representatives Hanner of the 133rd, McCall of the 78th, Royal of the 140th, Smith of the 87th and Powell of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to
2 additional duties and powers of the State Soil and Water Conservation Commission, so as
3 to provide for certain powers and duties related to water resources; to amend Chapter 5 of
4 Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to
5 change certain provisions relating to permits for withdrawal, diversion, or impoundment of
6 surface waters and monitoring, recording, and reporting water withdrawn by certain
7 irrigation systems; to change certain provisions relating to definitions relative to
8 ground-water use generally; to change certain provisions relating to permits to withdraw,
9 obtain, or use ground water, water conservation plans, factors to be considered, notice of
10 official acts, administrative hearings, and judicial review; to change certain provisions
11 relating to emergency orders, hearings, and appeals; to change certain provisions relating to
12 permits for farm uses, notice of transfer or modification in use or capacity, nonuse,
13 suspension or modification, priority uses, and effect on existing common or statutory law;
14 to provide for preparation, review, and submission of a proposed comprehensive state-wide
15 water management plan; to provide legislative findings and declarations; to repeal conflicting
16 laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 style="text-align:center">**PART I**
19 style="text-align:center">**SECTION 1-1.**

20 Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to additional powers
21 and duties of the State Soil and Water Conservation Commission, is amended by inserting
22 a new paragraph to read as follows:

23 "(7.1) To formulate such rules and regulations and to exercise such powers as are
24 necessary to perform its duties under subsection (o) of Code Section 12-5-31 and
25 subsection (d) of Code Section 12-5-105;"

PART II

SECTION 2-1.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by striking Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters and monitoring, recording, and reporting water withdrawn by certain irrigation systems, and inserting in lieu thereof the following:

"12-5-31.

(a) As used in this Code section, the term:

(1) 'Director' means the director of the Environmental Protection Division of the Department of Natural Resources or his or her designee.

(2) 'Diversion' means a turning aside or altering of the natural course of surface waters.

(3) 'Farm uses' means irrigation of any land used for general farming, forage, aquaculture, pasture, turf production, orchards, or tree and ornamental nurseries; or provisions of water supply for farm animals, poultry farming, or any other activity conducted in the course of a farming operation. Farm uses shall also include the processing of perishable agricultural products and the irrigation of recreational turf, except in the Chattahoochee River watershed upstream from Peachtree Creek where irrigation of recreational turf shall not be considered a farm use.

(4) 'Impoundment' means the storing or retaining of surface waters by whatever method or means.

(5) 'Surface waters of the state' or 'surface waters' means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs producing in excess of 100,000 gallons per day, and all other bodies of surface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

(6) 'Withdrawal' means the taking away of surface waters from their natural course.

~~(a)~~(b)(1) No person shall make any withdrawal, diversion, or impoundment of any of the surface waters of the state for whatever use without obtaining a permit from the director; provided, however, that no permit shall be required for:

(A) Any such withdrawal or combination of several withdrawals onto one or more properties or fields in combination as a system which does not involve more than 100,000 gallons per day on a monthly average;

(B) Any such diversion or combination of several diversions onto one or more properties or fields in combination as a system which does not reduce the flow of the surface waters at the point where the watercourse, prior to diversion, leaves the person's

1 or persons' property or properties on which the diversion occurred, by more than
2 100,000 gallons per day on a monthly average;

3 (C) Any such diversion accomplished as part of construction for transportation
4 purposes which does not reduce the flow of surface waters in the diverted watercourse
5 by more than 150,000 gallons per day on a monthly average; or

6 (D) Any such impoundment or combination of several impoundments onto one or more
7 properties or fields in combination as a system which does not reduce the flow of the
8 surface waters immediately downstream of the impoundment by more than 100,000
9 gallons per day on a monthly average.

10 (2) No permit shall be required for a reduction of flow of surface waters during the
11 period of construction of an impoundment, including the initial filling of the
12 impoundment, ~~or for farm ponds or farm impoundments constructed and managed for the~~
13 ~~sole purpose of fish, wildlife, recreation, or other farm uses.~~ After the initial construction
14 and filling of an impoundment, a permit issued pursuant to this Code section shall be
15 required for the continued use of such an impoundment for withdrawals greater than
16 100,000 gallons per day. A permit application for the continued farm use of an
17 impoundment must be submitted on or before July 1, 2004, by any person who used an
18 impoundment on or before July 1, 2003, and desires to continue such use in the future.
19 Such permit shall be issued by the director not later than July 1, 2005.

20 (3)(A) Notwithstanding any other provision of this Code section to the contrary, a
21 permit for the withdrawal or diversion of surface waters for farm uses shall be issued
22 by the director to any person when the applicant submits an application which provides
23 reasonable proof that the applicant's farm use of surface waters occurred prior to July
24 1, 1988, and when any such application is submitted prior to July 1, 1991. If submitted
25 prior to July 1, 1991, an application for a permit to be issued based upon farm uses of
26 surface waters occurring prior to July 1, 1988, shall be granted for the withdrawal or
27 diversion of surface waters at a rate of withdrawal or diversion equal to the greater of
28 the operating capacity in place for withdrawal or diversion on July 1, 1988, or, when
29 measured in gallons per day on a monthly average for a calendar year, the greatest
30 withdrawal or diversion capacity during the five-year period immediately preceding
31 July 1, 1988. If submitted after July 1, 1991, or, regardless of when submitted, if it is
32 based upon a withdrawal or diversion of surface waters for farm uses occurring or
33 proposed to occur on or after July 1, 1988, an application shall be subject to evaluation
34 and classification pursuant to subsections (e), (f), and (g) of this Code section, but a
35 permit based upon such evaluation and classification ~~shall~~ may be issued to ensure the
36 applicant's right to a reasonable use of such surface waters. Any permit issued pursuant
37 to this ~~paragraph~~ subparagraph shall be conditioned upon the requirement that the

1 permittee shall provide, on forms prescribed by the director, information relating to a
 2 general description of the lands and number of acres subject to irrigation and the
 3 permit; a description of the general type of irrigation system used; the source of
 4 withdrawal water such as river, stream, or impoundment; and pump information,
 5 including rated capacity, pump location, and power information. Permits issued under
 6 this paragraph subparagraph shall have no term and may be transferred or assigned to
 7 subsequent owners of the lands which are the subject of such permit; provided,
 8 however, that the division shall receive written notice of any such transfer or
 9 assignment. Any modification in the use or capacity conditions contained in the permit
 10 or in the lands which are the subject of such permit shall require the permittee to submit
 11 an application for review and approval by the director consistent with this Code section.

12 (B) On or after July 1, 2003, the director may deny an application for a withdrawal
 13 permit for farm use or an increase in withdrawal from an existing permit for farm use
 14 based on the availability of water in the watershed or aquifer or if the applicant fails to
 15 demonstrate a need for the water. A maximum annual volume of water that the
 16 permittee may use shall be specified as a permit limit for any farm use permit issued
 17 after July 1, 2003. If use has not commenced within two years after an initial such
 18 permit has been issued, then the permit may be revoked in whole or in part. Periodic
 19 idling of use under a farm use permit due to silvicultural or agricultural rotations or
 20 implementation of Article 9 of this chapter, the 'Flint River Drought Protection Act,'
 21 shall not be cause for permit revocation.

22 (C) Nothing in this paragraph shall be construed as a repeal or modification of Code
 23 Section 12-5-46.

24 ~~(b) For purposes of this Code section, the term:~~

25 ~~(1) 'Director' means the director of the Environmental Protection Division of the~~
 26 ~~Department of Natural Resources, or his designee.~~

27 ~~(2) 'Diversion' means a turning aside or altering of the natural course of surface waters.~~

28 ~~(3) 'Farm uses' means irrigation of any land used for general farming, forage,~~
 29 ~~aquaculture, pasture, turf production, orchards, or tree and ornamental nurseries;~~
 30 ~~provisions of water supply for farm animals, poultry farming, or any other activity~~
 31 ~~conducted in the course of a farming operation. Farm uses shall also include the~~
 32 ~~processing of perishable agricultural products and the irrigation of recreational turf,~~
 33 ~~except in the Chattahoochee River watershed upstream from Peachtree Creek, where~~
 34 ~~irrigation of recreational turf shall not be considered a farm use.~~

35 ~~(4) 'Impoundment' means the storing or retaining of surface water by whatever method~~
 36 ~~or means.~~

1 ~~(5) 'Surface water(s) of the state' or 'surface water(s)' means any and all rivers, streams,~~
 2 ~~creeks, branches, lakes, reservoirs, ponds, drainage systems, springs producing in excess~~
 3 ~~of 100,000 gallons per day, and all other bodies of surface water, natural or artificial,~~
 4 ~~lying within or forming a part of the boundaries of the state which are not entirely~~
 5 ~~confined and retained completely upon the property of a single individual, partnership,~~
 6 ~~or corporation.~~

7 ~~(6) 'Withdrawal' means the taking away of surface water from its natural course.~~

8 (c) To obtain a permit pursuant to this Code section, the applicant must establish that the
 9 proposed withdrawal, diversion, or impoundment of surface waters is consistent with this
 10 article.

11 (d) All permit applications filed with the director under this Code section shall contain the
 12 name and address of the applicant or, in the case of a corporation, the address of its
 13 principal business office in this state; the date of filing; the source of the water supply; the
 14 quantity of water applied for; the use to be made of the water and any limitation thereon;
 15 the place of use; the location of the withdrawal, diversion, or impoundment; for those
 16 permits which indicate an increase in water usage, ~~except for permits solely for agricultural~~
 17 ~~use~~, a water conservation plan approved by the director and prepared based on guidelines
 18 issued by the director; and such other information as the director may deem necessary;
 19 provided, however, that any required information already provided the director by the
 20 applicant in the context of prior dealings with the division, which information is still
 21 correct, may be incorporated into the application by adequate reference to same. For any
 22 permit solely for farm use, a water conservation plan prepared by the State Soil and Water
 23 Conservation Commission or by the federal Natural Resources Conservation Service shall
 24 be deemed in compliance with the plan requirement of this subsection. The director shall
 25 collect and disseminate such technical information as the director deems appropriate to
 26 assist applicants in the preparation of water conservation plans.

27 (e) Subject to subsection (g) of this Code section, the Board of Natural Resources shall by
 28 rule or regulation establish a reasonable system of classification for application in
 29 situations involving competing uses, existing or proposed, for a supply of available surface
 30 waters. Such classifications shall be based upon but not necessarily limited to the following
 31 factors:

32 (1) The number of persons using the particular water source and the object, extent, and
 33 necessity of their respective withdrawals, diversions, or impoundments;

34 (2) The nature and size of the water source;

35 (3) The physical and chemical nature of any impairment of the water source adversely
 36 affecting its availability or fitness for other water uses;

37 (4) The probable severity and duration of such impairment under foreseeable conditions;

1 (5) The injury to public health, safety, or welfare which would result if such impairment
2 were not prevented or abated;

3 (6) The kinds of businesses or activities to which the various uses are related and the
4 economic consequences;

5 (7) The importance and necessity of the uses, including farm uses, claimed by permit
6 applicants and the extent of any injury or detriment caused or expected to be caused to
7 other water uses;

8 (8) Diversion from or reduction of flows in other watercourses;

9 (9) The prior investments of any person in lands, and plans for the usage of water in
10 connection with such lands which plans have been submitted to the director within a
11 reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided,
12 however, that the granting of such permit shall not have unreasonably adverse effects
13 upon other water uses in the area, including potential as well as present use; and

14 (10) The varying circumstances of each case.

15 (f) In the event two or more competing applicants or users qualify equally under
16 subsection (e) of this Code section, the director is authorized to grant permits to applicants
17 or modify the existing permits of users for use of specified quantities of surface waters on
18 a prorated or other reasonable basis in those situations where such action is feasible;
19 provided, however, the director shall give preference to an existing use over an initial
20 application.

21 (g) The division shall take into consideration the extent to which any withdrawals,
22 diversions, or impoundments are reasonably necessary, in the judgment of the director, to
23 meet the applicant's needs and ~~shall~~ may grant a permit which shall meet those reasonable
24 needs; provided, however, that the granting of such permit shall not have unreasonably
25 adverse effects upon other water uses in the area, including but not limited to public use,
26 farm use, and potential as well as present use; and provided, further, that the director shall
27 grant a permit to any permit applicant who on July 1, 1977, has outstanding indebtedness
28 in the form of revenue certificates or general obligation bonds which are being amortized
29 through the sale of surface water, the permitted quantity of which shall be at least in an
30 amount consistent with that quantity for which the revenue certificates or general
31 obligation bonds were issued.

32 (h) Except for applications filed pursuant to ~~paragraph (3) of subsection (a)~~ subparagraph
33 (b)(3)(A) of this Code section, permits may be granted for any period of time not less than
34 ten years, unless the applicant requests a shorter period of time, nor more than 50 years.
35 The director may base the duration of such permits on any reasonable system of
36 classification based upon but not necessarily limited to such factors as source of supply and
37 type of use. In evaluating any application for a permit for the use of water for a period of

1 25 years or more, the director shall evaluate the condition of the water supply to assure that
2 the supply is adequate to meet the multiple needs of the citizens of the state as can
3 reasonably be projected for the term of the permit and ensure that the issuance of such
4 permit is based upon a water development and conservation plan for the applicant or for
5 the region. Such water development and conservation plan for the applicant or for the
6 region shall promote the conservation and reuse of water within the state, guard against a
7 shortage of water within the state, promote the efficient use of the water resource, and be
8 consistent with the public welfare of the state. The board shall promulgate regulations for
9 implementation of this subsection, including provisions for review of such permits
10 periodically or upon a substantial reduction in average annual volume of the water resource
11 which adversely affects water supplies to determine that the permittee continues in
12 compliance with the conditions of the permit and that the plan continues to meet the overall
13 supply requirements for the term of the permit. In the event the director determines that a
14 regional plan is required in connection with any application for a permit for the use of
15 water for a period of 25 years or more, the division or a person or entity designated by the
16 division may develop such a plan. Such regional plan shall include water development,
17 conservation, and sustainable use and shall be based upon detailed scientific analysis of the
18 water source, the projected future condition of the resource, current demand, and estimated
19 future demands on the resource.

20 (i) A permittee may seek modification of any of the terms of an issued permit. The director
21 may approve the proposed modification if the permittee establishes that a change in
22 conditions has resulted in a need by the permittee of more water than is allowed under the
23 existing permit, or that the proposed modification would result in a more efficient
24 utilization of water than is possible under the existing permit, or that a proposed change in
25 conditions would result in a need by the permittee of more water than is allowed under the
26 existing permit. Any such modification shall be consistent with the health and safety of the
27 citizens of this state and with this article. In any administrative review proceeding resulting
28 from an action of the director under this subsection, the burden of proof in establishing that
29 the requisite criteria have been met shall be upon the person seeking such modification.

30 (j) A permittee may seek renewal of a permit issued pursuant to this Code section from the
31 director at any time within six months prior to the date of expiration of the permit. Except
32 as otherwise specified in this Code section, all permit renewal applications shall be treated
33 in the same manner as the initial permit application.

34 (k) The director may revoke, suspend, or modify a permit issued pursuant to this Code
35 section as follows:

- 36 (1) For any material false statement in an application for a permit to initiate, modify, or
37 continue a use of surface waters, or for any material false statement in any report or

1 statement of fact required of the permittee pursuant to this Code section or pursuant to
 2 the conditions contained in a permit granted under this Code section, the director may
 3 revoke the user's permit, in whole or in part, permanently or temporarily;

4 (2) For any willful violation of the conditions of a permit granted pursuant to this Code
 5 section, the director may revoke the user's permit, in whole or in part, permanently or
 6 temporarily;

7 (3) For violation of any provision of this Code section, the director may revoke the
 8 permit, in whole or in part, for a period not to exceed one year;

9 (4) For nonuse of the water supply (or a significant portion thereof) allowed by the
 10 permit for a period of two consecutive years or more, the director may revoke the permit
 11 permanently, in whole or in part, unless the permittee can reasonably demonstrate that
 12 ~~his~~ such nonuse was due to extreme hardship caused by factors beyond his or her control,
 13 except that this paragraph shall not apply to farm use permits issued pursuant to
 14 ~~paragraph (3) of subsection (a)~~ subparagraph (b)(3)(A) of this Code section after initial
 15 use has commenced;

16 (5) The director may revoke a permit permanently, in whole or in part, with the written
 17 consent of the permittee;

18 (6) The director may suspend or modify a permit, except farm use permits issued or
 19 modified prior to July 1, 2003, if he or she should determine through inspection,
 20 investigation, or otherwise that the quantity of water allowed under the permit is greater
 21 than that needed by the permittee for the particular use upon which the application for
 22 permit was based or would prevent other applicants from reasonable use of surface
 23 waters, including farm uses;

24 (7) The director may suspend or modify a farm use permit if he or she should determine
 25 through inspection, investigation, or otherwise that the quantity of water allowed under
 26 the permit would prevent other applicants from reasonable use of surface waters for farm
 27 use; ~~and~~

28 (8) Consistent with the considerations set forth in subsection (g) of this Code section, the
 29 director may revoke, suspend, or modify a permit for any other good cause consistent
 30 with the health and safety of the citizens of this state and with this article: and

31 (9) In the event of modification, suspension, or revocation of a permit, the director shall
 32 serve written notice of such action on the permit holder and shall set forth in such notice
 33 the reason for such action.

34 (l) When there is a constraint on the issuance of new permits for use in any area of the
 35 state, an otherwise qualified new user in such area has made application, and any existing
 36 user or users in such area provide their written consent to revocation of their permits, in
 37 whole or in part, in sufficient amounts, the director may issue a new permit to the applicant.

1 The new permittee must show in such application that there will be no reduction in the
 2 water available to users downstream. The director may impose permit requirements or
 3 other conditions on use as may be needed to prevent unreasonably adverse effects on third
 4 parties and the public interest. A new permit issued under this subsection shall be forfeited
 5 if use for the stated purpose has not commenced within two years after issuance.

6 ~~(f) Emergency period of water shortage:~~

7 (m)(1) Whenever it clearly appears to the director from specific facts shown by affidavits
 8 of residents of the affected area of this state that an emergency period of water shortage
 9 exists within such area, so as to place in jeopardy the health or safety of the citizens of
 10 such area or to threaten serious harm to the water resources of the area, he or she may by
 11 emergency order impose such restrictions on one or more permits previously issued
 12 pursuant to this Code section as may be necessary to protect adequately such citizens or
 13 water resources; provided, however, such order shall not be issued until an effort has been
 14 made to give written notice of the proposed action by certified mail or statutory overnight
 15 delivery to the permittee or permittees to be affected. Such written notice shall allow such
 16 permittee or permittees five days from the date of mailing of the notice to appear before
 17 the director in opposition to the proposed action. The director may impose such
 18 restrictions based upon any reasonable system of classification established by the Board
 19 of Natural Resources through rule or regulation. Such system of classification shall be
 20 based upon but not necessarily limited to those factors set forth in subsection (e) of this
 21 Code section;

22 (2) The director shall specify in such order any change in the conditions of the permit,
 23 any suspension of the permit, or any other restriction on withdrawal, diversion, or
 24 impoundment of surface waters for the duration of the emergency water shortage and
 25 shall serve same on the person by hand delivery or certified mail or statutory overnight
 26 delivery. Except as to farm uses, any such change, suspension, or other restriction shall
 27 be effective immediately upon receipt of such order by the permittee, his or her agent for
 28 service of process, or any agent or employee of the permittee who receives the
 29 notification at the permittee's principal place of business in the state. Any permittee,
 30 other than a farm use permittee, to whom such order is directed shall comply therewith
 31 immediately. Upon application to a hearing officer appointed by the Board of Natural
 32 Resources of this state, a permittee, including a farm use permittee, shall be afforded a
 33 hearing within 20 days of receipt of such notice by the hearing examiner in accordance
 34 with subsection (c) of Code Section 12-2-2. Farm use permittees may continue to make
 35 use of water to their permitted capacity during the appeal process, but failure to timely
 36 request a hearing in accordance with subsection (c) of Code Section 12-2-2 shall waive
 37 such right;

1 (3) During emergency periods of water shortage, the director shall give first priority to
2 providing water for human consumption and second priority to farm use;

3 (4) The importance and necessity of water for industrial purposes are in no way modified
4 or diminished by this Code section; and

5 (5) Upon expiration of the emergency period of water shortage, as determined by the
6 director, the director shall immediately notify each affected permittee, in writing, of such
7 expiration, and the permittees shall thereafter be authorized to operate under the permit
8 as issued prior to the emergency period of water shortage.

9 ~~(m) Except for farm use permits issued pursuant to paragraph (3) of subsection (a) of~~

10 (n) For all permits, including without limitation farm use permits, issued under this Code
11 section, whenever required to carry out the objectives of this Code section, including but
12 not limited to determining whether or not any person is in violation of any provision of this
13 Code section or any rule or regulation promulgated pursuant hereto to this Code section;
14 encouraging or ensuring compliance with any provision of this Code section or any rule or
15 regulation promulgated pursuant hereto to this Code section; determining whether or not
16 any person is in violation of any permit condition; or establishing a data bank on the usage
17 of surface waters in a particular area or areas of this state, the director may by order,
18 permit, or otherwise, in writing, require any person holding a permit under this Code
19 section, or any other person who the director reasonably believes is withdrawing, diverting,
20 or impounding surface waters in violation of the permitting requirements of this Code
21 section, to:

22 (1) Establish and maintain records;

23 (2) Make reports;

24 (3) Install, use, and maintain monitoring equipment or methods; and

25 (4) Provide such other information as the director may reasonably require.

26 Notwithstanding the foregoing provisions of this subsection, any demand for such
27 information by the director, which information has already been provided to the director
28 by such person in the context of prior dealings with the division, and which is still correct,
29 may be satisfied by adequate reference to same.

30 (o)(1) The State Soil and Water Conservation Commission shall have the duty of
31 implementing a program of measuring farm uses of water in order to obtain clear and
32 accurate information on the patterns and amounts of such use, which information is
33 essential to proper management of water resources by the state and useful to farmers for
34 improving the efficiency and effectiveness of their use of water, meeting the requirements
35 of subsection (n) of this Code section, and improving water conservation. Accordingly,
36 the State Soil and Water Conservation Commission shall on behalf of the state purchase,
37 install, operate, and maintain water-measuring devices for farm uses that are required by

1 this Code section to have permits. As used in this paragraph, the term 'operate' shall
 2 include reading the water-measuring device, compiling data, and reporting findings.

3 (2) For purposes of this subsection, the State Soil and Water Conservation Commission:

4 (A) May conduct its duties with commission staff and may contract with other persons
 5 to conduct any of its duties;

6 (B) May receive and use state appropriations, gifts, grants, or other sources of funding
 7 to carry out its duties;

8 (C) In consultation with the director, shall develop a priority system for installation of
 9 water-measuring devices for farm uses that have permits as of July 1, 2003. The
 10 commission shall, provided that adequate funding is received, install and commence
 11 operation and maintenance of water-measuring devices for all such farm uses by July
 12 1, 2009;

13 (D) May charge any permittee the commission's reasonable costs for purchase and
 14 installation of a water-measuring device for any farm use permit issued by the director
 15 after July 1, 2003; and

16 (E) Shall issue an annual progress report on the status of water-measuring device
 17 installation.

18 (3) Any person who desires to commence a farm use for which a permit is issued after
 19 July 1, 2003, shall not commence such use prior to the installation of a water-measuring
 20 device by the commission.

21 (4) After July 1, 2009, no one shall use water for a farm use required to have a permit
 22 under this Code section without having a water-measuring device in operation that has
 23 been installed by the commission.

24 (5) Employees or agents of the commission are authorized to enter upon private property
 25 at reasonable times to conduct the duties of the commission under this subsection.

26 (n)(p)(1) As used in this subsection, the term:

27 (A) 'Basin' means the Altamaha, Chattahoochee, Coosa, Flint, Ochlocknee, Ocmulgee,
 28 Oconee, Ogeechee, St. Mary's, Satilla, Savannah, Suwannee, Tallapoosa, or Tennessee
 29 River basin.

30 (B) 'Basin of origin' means the basin from which the withdrawal, diversion, or pumping
 31 of surface waters occurs.

32 (C) 'Critical needs' means temporary, short-term needs for water such as those due to
 33 equipment failure, source contamination, or severe drought affecting public health and
 34 safety.

35 (D) 'Interbasin transfer' means the withdrawal, diversion, or pumping of surface waters
 36 from a point within any basin of origin and the discharge of all or any part of that water
 37 into a different receiving basin by means of pipes, conduits, ditches, or canals.

1 (E) 'Receiving basin' means the basin into which the discharge of all or any part of
 2 transferred water occurs.

3 (2) It is the policy of this state to protect reasonable needs of both the basin of origin and
 4 the receiving basin through the regulation of interbasin transfers. Accordingly, in ~~In~~ the
 5 consideration of applications for permits which if granted would authorize the withdrawal
 6 and transfer of surface waters across natural basins an interbasin transfer, the director
 7 shall be bound by the following requirements:

8 ~~(1)~~(A) The director shall give due consideration to competing existing uses and
 9 applications for permits which would not involve interbasin transfers of surface waters
 10 and, subject to subsection (e) of this Code section, shall endeavor to allocate a
 11 reasonable supply of surface waters to such users and applicants;

12 (B) Any interbasin transfer that crosses more than two adjacent counties is prohibited,
 13 except to satisfy critical needs; and

14 ~~(2)~~(C) The director shall provide a press release regarding the proposed issuance of ~~all~~
 15 any permits authorizing such interbasin transfer of surface waters to newspapers of
 16 general circulation in all areas of the state which would be affected by such issuance.
 17 The press release shall be provided at least ~~seven~~ 30 days before the issuance of ~~these~~
 18 any such permits. If the director ~~should determine~~ determines that sufficient public
 19 interest warrants a public hearing on the issuance of ~~these~~ any such permits, he or she
 20 shall cause such a hearing to be held somewhere in the area affected prior to the
 21 issuance of ~~these~~ any such permits.

22 ~~(6)~~(q)(1) As used in this subsection, the term 'aggrieved or adversely affected' means the
 23 challenged action has caused or will cause a person injury in fact and the injury is to an
 24 interest within the zone of interests to be protected or regulated by statutes that the
 25 director is empowered to administer and enforce.

26 ~~(1)~~(2) Except as otherwise provided in subsection ~~(1)~~ (m) of this Code section for
 27 emergency orders, any person who is aggrieved or adversely affected by any order or
 28 action of the director pursuant to this Code section shall, upon petition within 30 days
 29 after the issuance of such order or the taking of such action, have a right to a hearing
 30 before an administrative law judge appointed by the Board of Natural Resources. The
 31 hearing before the administrative law judge shall be conducted in accordance with
 32 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and
 33 regulations adopted by the board pursuant ~~thereto~~ to such chapter. Any administrative law
 34 judge so appointed by the board shall fully meet and qualify as to all applicable conflict
 35 of interest requirements provided for in Section 304(h)(2)(D) of the Federal Water
 36 Pollution Control Act of 1972, as amended, and the rules, regulations, and guidelines
 37 promulgated ~~thereunder~~ pursuant to such provision of federal law. The decision of the

1 administrative law judge shall constitute the final decision of the board. Any party to the
 2 hearing, including the director, shall have the right of judicial review thereof in
 3 accordance with Chapter 13 of Title 50, including the right to seek judicial review in the
 4 superior court of the county of the applicant's or permittee's residence.

5 ~~(2) Persons are 'aggrieved or adversely affected' where the challenged action has caused
 6 or will cause them injury in fact and where the injury is to an interest within the zone of
 7 interests to be protected or regulated by the statutes that the director is empowered to
 8 administer and enforce.~~

9 (3) In the event the director asserts in response to the petition before the administrative
 10 law judge that the petitioner is not aggrieved or adversely affected, the administrative law
 11 judge shall take evidence and hear arguments on this issue and thereafter make a ruling
 12 on this issue before continuing with the hearing. The burden of going forward with
 13 evidence on this issue shall rest with the petitioner."

14 **PART III**

15 **SECTION 3-1.**

16 Said chapter is further amended in Code Section 12-5-92, relating to definitions relative to
 17 ground-water use generally, by redesignating paragraphs (5.1) through (9) as paragraphs (6)
 18 through (10), respectively.

19 **SECTION 3-2.**

20 Said chapter is further amended by striking Code Section 12-5-96, relating to permits to
 21 withdraw, obtain, or use ground water; water conservation plans; factors to be considered;
 22 notice of official acts; administrative hearings; and judicial review, and inserting in lieu
 23 thereof the following:

24 "12-5-96.

25 (a)(1) No person shall withdraw, obtain, or utilize ground waters in excess of 100,000
 26 gallons per day, whether through a single point of withdrawal or through a combination
 27 of a system of wells such as multiple wells on a given farm, field, or other user or under
 28 a common purpose, design, or plan, for any purpose unless such person shall first obtain
 29 a permit therefor from the division.

30 (2) Any person applying for a permit or a permit modification under this part which
 31 indicates an increase in water usage, ~~except for permits for solely agricultural usage~~, shall
 32 also submit with such application a water conservation plan approved by the director and
 33 based on guidelines issued by the director. For any permit solely for farm use, a water
 34 conservation plan prepared by the State Soil and Water Conservation Commission or by

1 the federal Natural Resources Conservation Service shall be deemed in compliance with
2 such plan requirement. The director shall collect and disseminate such technical
3 information as the director deems appropriate to assist in the preparation of water
4 conservation plans.

5 (b) When sufficient evidence is provided by the applicant that the water withdrawn or used
6 from the ground is not consumptively used, a permit therefor shall be issued by the division
7 without a hearing and without the conditions provided in subsection (c) of this Code
8 section. Applications for such permits shall set forth such facts as the division shall deem
9 necessary to enable it to establish and maintain adequate records of all water uses.

10 (c) In all cases in which sufficient evidence of a nonconsumptive use is not presented by
11 the applicant, the division shall notify the applicant of the division's proposed action
12 concerning such permit and shall transmit with such notice a copy of any permit it proposes
13 to issue to the applicant, which permit will become final unless a request for a hearing is
14 made within 30 days from the date of service of such notice. The division shall have the
15 power:

16 (1) To grant such permit with such conditions as the division deems necessary to
17 implement the regulations adopted pursuant to Code Section 12-5-95;

18 (2) To grant any temporary permit for such period of time as the division shall specify
19 where conditions make such temporary permit essential, even though the action allowed
20 by such permit may not be consistent with the regulations of the Board of Natural
21 Resources;

22 (3) To modify or revoke any permit upon not less than 60 days' written notice to any
23 person affected; or

24 (4) To deny such permit if the application therefor or the effect of the water use proposed
25 or described therein upon the water resources of the area is found to be contrary to public
26 interest. Any water user wishing to contest the proposed action shall be entitled to a
27 hearing upon request therefor.

28 (d) In adopting any regulations pursuant to Code Section 12-5-95 and in considering
29 permit applications, revocations, or modifications under this Code section, the Board of
30 Natural Resources or the division shall consider:

31 (1) The number of persons using an aquifer and the object, extent, and necessity of their
32 respective withdrawals or uses;

33 (2) The nature and size of the aquifer;

34 (3) The physical and chemical nature of any impairment of the aquifer adversely
35 affecting its availability or fitness for other water uses, including public use;

36 (4) The probable severity and duration of such impairment under foreseeable conditions;

1 (5) The injury to public health, safety, or welfare which would result if such impairment
2 were not prevented or abated;

3 (6) The kinds of businesses or activities to which the various uses are related;

4 (7) The importance and necessity of the uses, including farm uses, claimed by permit
5 applicants under this Code section, or of the water uses of the area under Code Section
6 12-5-95, and the extent of any injury or detriment caused or expected to be caused to
7 other water uses, including public use;

8 (8) Diversion from or reduction of flows in other watercourses or aquifers;

9 (9) A regional water development conservation and sustainable use plan, where
10 applicable; and

11 (10) Any other relevant factors.

12 (e) The division or a party designated by the division may develop a regional water
13 development and conservation plan for the state's major aquifers or any portion thereof.
14 Such plan shall include water development, conservation, and sustainable use and shall be
15 based on detailed scientific analysis of the aquifer, the projected future condition of the
16 aquifer, and current demand and estimated future demands on the aquifer. Such plan shall
17 serve to promote the conservation and reuse of water within the state, guard against a
18 shortage of water within the state and region, and promote the efficient use of the water
19 resource and shall be consistent with the general welfare and public interest of the state as
20 provided in Code Section 12-5-91. Upon adoption of a regional plan, all permits issued by
21 the division shall be consistent with such plan. The term of any permit and all provisions
22 of any permit for which an application for renewal is made prior to the completion of any
23 regional plan shall be extended at least until the completion of such plan. Applications for
24 new permits shall be subject to review by the division and the division may issue such
25 permits as appropriate pending completion of a regional plan.

26 (f) The division shall give notice of all its official acts which have or are intended to have
27 general application and effect to all persons on its mailing list on the date when such action
28 is taken. It shall be the duty of the division to keep such a mailing list on which it shall
29 record the name and address of each person who requests a listing thereon, together with
30 the date of receipt of such request. Any person may, by written request to the division, ask
31 to be permanently recorded on such a mailing list.

32 (g) Any hearing pursuant to this Code section shall be held in accordance with subsection
33 (c) of Code Section 12-2-2 and also, for the purposes of this part, shall be specifically
34 subject to subsection (a) of Code Section 50-13-19.

35 (h)(1) As used in this subsection, the term:

1 (A) 'Basin' means the Altamaha, Chattahoochee, Coosa, Flint, Ochlocknee, Ocmulgee,
 2 Oconee, Ogeechee, St. Mary's, Satilla, Savannah, Suwannee, Tallapoosa, or Tennessee
 3 River basin.

4 (B) 'Basin of origin' means the basin from which the withdrawal, diversion, or pumping
 5 of ground water occurs.

6 (C) 'Critical needs' means temporary, short-term needs for water such as those due to
 7 equipment failure, source contamination, or severe drought affecting public health and
 8 safety.

9 (D) 'Interbasin transfer' means the withdrawal, diversion, or pumping of ground water
 10 from a point within or beneath any basin of origin and the discharge of all or any part
 11 of that water into a different receiving basin by means of pipes, conduits, ditches, or
 12 canals.

13 (E) 'Receiving basin' means the basin into which the discharge of all or any part of
 14 transferred water occurs.

15 (2) It is the policy of this state to protect reasonable needs of both the basin of origin and
 16 the receiving basin through the regulation of interbasin transfers. Accordingly, in the
 17 consideration of applications for permits which if granted would authorize an interbasin
 18 transfer, the director shall be bound by the following requirements:

19 (A) The director shall give due consideration to competing existing uses and
 20 applications for permits which would not involve interbasin transfers of ground water
 21 and, subject to subsection (d) of this Code section, shall endeavor to allocate a
 22 reasonable supply of ground water to such users and applicants;

23 (B) Any interbasin transfer that crosses more than two adjacent counties is prohibited,
 24 except to satisfy critical needs; and

25 (C) The director shall provide a press release regarding the proposed issuance of any
 26 permits authorizing such interbasin transfer of ground water to newspapers of general
 27 circulation in all areas of the state which would be affected by such issuance. The press
 28 release shall be provided at least 30 days before the issuance of any such permits. If
 29 the director determines that sufficient public interest warrants a public hearing on the
 30 issuance of any such permits, he or she shall cause such a hearing to be held
 31 somewhere in the area affected prior to the issuance of any such permits.

32 (h)(i)(1) As used in this subsection, the term 'aggrieved or adversely affected' means the
 33 challenged action has caused or will cause a person injury in fact and the injury is to an
 34 interest within the zone of interests to be protected or regulated by statutes that the
 35 director is empowered to administer and enforce.

36 (2) Except as otherwise provided in Code Section 12-5-102 for emergency orders, any
 37 person who is aggrieved or adversely affected by any order or action of the director

1 pursuant to this Code section shall, upon petition within 30 days after the issuance of such
 2 order or the taking of such action, have a right to a hearing before an administrative law
 3 judge appointed by the Board of Natural Resources. The hearing before the
 4 administrative law judge shall be conducted in accordance with Chapter 13 of Title 50,
 5 the 'Georgia Administrative Procedure Act,' and the rules and regulations adopted by the
 6 board pursuant ~~thereto~~ to such chapter. Any administrative law judge so appointed by the
 7 board shall fully meet and qualify as to all applicable conflict of interest requirements
 8 provided for in Section 304(h)(2)(D) of the Federal Water Pollution Control Act
 9 Amendments of 1972, as amended, and the rules, regulations, and guidelines promulgated
 10 ~~thereunder~~ pursuant to such provision of federal law. The decision of the administrative
 11 law judge shall constitute the final decision of the board. Any party to the hearing,
 12 including the director, shall have a right of judicial review thereof in accordance with
 13 Chapter 13 of Title 50, including the right to seek judicial review in the superior court in
 14 the county of the applicant's or permittee's residence. For the purposes of this part, such
 15 review is also specifically subject to subsection (a) of Code Section 50-13-19.

16 ~~(2) Persons are 'aggrieved or adversely affected' where the challenged action has caused~~
 17 ~~or will cause them injury in fact and where the injury is to an interest within the zone of~~
 18 ~~interests to be protected or regulated by the statutes that the director is empowered to~~
 19 ~~administer and enforce. (3) In the event the director asserts in response to the petition~~
 20 ~~before the administrative law judge that the petitioner is not aggrieved or adversely~~
 21 ~~affected, the administrative law judge shall take evidence and hear arguments on this~~
 22 ~~issue and thereafter make a ruling on this issue before continuing with the hearing. The~~
 23 ~~burden of going forward with evidence on this issue shall rest with the petitioner."~~

24 SECTION 3-3.

25 Said chapter is further amended by striking Code Section 12-5-102, relating to emergency
 26 orders, hearings, and appeals, and inserting in lieu thereof the following:

27 "12-5-102.

28 (a) ~~After receipt of affidavits or other sworn statements from persons setting forth an~~
 29 ~~emergency situation requiring immediate action to protect the public health or welfare, and~~
 30 ~~after the division finds that such an emergency exists requiring immediate action to protect~~
 31 ~~the public health or welfare, the division may, without notice or hearing, issue an order~~
 32 ~~reciting the existence of such an emergency and requiring that such action be taken as the~~
 33 ~~division deems necessary to meet the emergency. Such order shall, except as to farm uses,~~
 34 ~~be effective immediately, and any person to whom such order is directed shall comply~~
 35 ~~therewith immediately but, on application to the division, shall be afforded a hearing within~~
 36 ~~five days from the day on which the order is issued. On the basis of such hearing, the~~

1 ~~division shall continue such order in effect, revoke it, or modify it. Whenever it clearly~~
2 ~~appears to the director from specific facts shown by affidavits of residents of the affected~~
3 ~~area of this state that an emergency period of water shortage exists within such area so as~~
4 ~~to place in jeopardy the health or safety of the citizens of such area or to threaten serious~~
5 ~~harm to the water resources of the area, he or she may by emergency order impose such~~
6 ~~restrictions on one or more permits previously issued pursuant to Code Section 12-5-96 as~~
7 ~~may be necessary to protect adequately such citizens or water resources; provided,~~
8 ~~however, such order shall not be issued until an effort has been made to give written notice~~
9 ~~of the proposed action by certified mail or statutory overnight delivery to the permittee or~~
10 ~~permittees to be affected. Such written notice shall allow such permittee or permittees five~~
11 ~~days from the date of mailing of the notice to appear before the director in opposition to~~
12 ~~the proposed action. The director may impose such restrictions based upon any reasonable~~
13 ~~system of classification established by the Board of Natural Resources through rule or~~
14 ~~regulation. Such system of classification shall be based upon but not necessarily limited to~~
15 ~~those factors set forth in subsection (d) of Code Section 12-5-96.~~

16 (b) ~~Any appeal from such order shall be in accordance with subsection (c) of Code Section~~
17 ~~12-2-2, and, for the purposes of this part, shall be specifically subject to subsection (a) of~~
18 ~~Code Section 50-13-19, except that the initial hearing shall be within five days from the~~
19 ~~date on which the order was issued. Farm use permittees may continue to make use of~~
20 ~~water to their permitted capacity during the appeal process, but failure to timely request a~~
21 ~~hearing shall waive such right. The director shall specify in such order any change in the~~
22 ~~conditions of the permit, any suspension of the permit, or any other restriction on~~
23 ~~withdrawing, obtaining, or utilizing ground water for the duration of the emergency water~~
24 ~~shortage and shall serve same on the person by hand delivery or certified mail or statutory~~
25 ~~overnight delivery. Except as to farm uses, any such change, suspension, or other~~
26 ~~restriction shall be effective immediately upon receipt of such order by the permittee, his~~
27 ~~or her agent for service of process, or any agent or employee of the permittee who receives~~
28 ~~the notification at the permittee's principal place of business in the state. Any permittee,~~
29 ~~other than a farm use permittee, to whom such order is directed shall comply therewith~~
30 ~~immediately. Upon application to a hearing officer appointed by the Board of Natural~~
31 ~~Resources of this state, a permittee, including a farm use permittee, shall be afforded a~~
32 ~~hearing within 20 days of receipt of such notice by the hearing examiner in accordance~~
33 ~~with subsection (c) of Code Section 12-2-2. Farm use permittees may continue to make use~~
34 ~~of water to their permitted capacity during the appeal process, but failure to timely request~~
35 ~~a hearing in accordance with subsection (c) of Code Section 12-2-2 shall waive such right.~~

36 (c) During emergency periods of water shortage, the director shall give first priority to
37 providing water for human consumption and second priority to farm use.

1 (d) The importance and necessity of water for industrial purposes are in no way modified
2 or diminished by this Code section.

3 (e) Upon expiration of the emergency period of water shortage as determined by the
4 director, the director shall immediately notify each affected permittee in writing of such
5 expiration, and the permittees shall thereafter be authorized to operate under the permits
6 as issued prior to the emergency period of water shortage."

7 SECTION 3-4.

8 Said chapter is further amended by striking Code Section 12-5-105, relating to permits for
9 farm uses, notice of transfer or modification in use or capacity, nonuse, suspension or
10 modification, priority uses, and effect on existing common or statutory law, and inserting in
11 lieu thereof the following:

12 "12-5-105.

13 (a)(1) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to
14 the contrary, a permit to withdraw, obtain, or utilize ground waters for farm uses, as that
15 term is defined by paragraph ~~(4)~~ (6) of Code Section 12-5-92, shall be issued by the
16 director to any person when the applicant submits an application which provides
17 reasonable proof that the applicant's farm use of ground water occurred prior to July 1,
18 1988, and when such application is submitted prior to July 1, 1991. If submitted prior to
19 July 1, 1991, an application for a permit to be issued based upon farm uses of ground
20 water occurring prior to July 1, 1988, shall be granted for the withdrawal of ground water
21 at a rate of withdrawal equal to the greater of the operating capacity in place for
22 withdrawal on July 1, 1988, or, when measured in gallons per day on a monthly average
23 for a calendar year, the greatest withdrawal capacity during the five-year period
24 immediately preceding July 1, 1988. If submitted after July 1, 1991, or, regardless of
25 when submitted, if it is based upon a withdrawal of ground water for farm uses occurring
26 or proposed to occur on or after July 1, 1988, an application shall be subject to evaluation
27 and classification pursuant to Code Sections 12-5-96 and 12-5-97, but a permit based
28 upon such evaluation and classification ~~shall~~ may be issued to ensure the applicant's right
29 to a reasonable use of such ground water. Any permit issued pursuant to this Code
30 section shall be further conditioned upon the requirement that the permittee shall provide,
31 on forms prescribed by the director, information relating to a general description of the
32 lands and number of acres subject to irrigation and the permit; the name and address of
33 the permittee; a description of the general type of irrigation system used; well
34 construction; and pump information, including rated capacity, pump setting depth, and
35 power information.

1 (2) On or after July 1, 2003, the director may deny an application for a withdrawal permit
 2 for farm use or an increase in withdrawal from an existing permit for farm use based on
 3 the availability of water in the watershed or aquifer or if the applicant fails to demonstrate
 4 a need for the water. A maximum annual volume of water that the permittee may use
 5 shall be specified as a permit limit for farm use permits issued on or after July 1, 2003.

6 (b) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the
 7 contrary, permits to withdraw, obtain, or utilize ground waters for farm uses, as that term
 8 is defined in paragraph ~~(10)~~ (6) of Code Section 12-5-92, whether for new withdrawals or
 9 under subsection (a) of this Code section, shall be governed as follows:

10 (1) A permit issued, modified, or amended after July 1, 2003, for farm uses shall have
 11 ~~no~~ annual reporting requirements, a specified maximum annual volume, and no term and
 12 may be transferred or assigned to subsequent owners of the lands which are the subject
 13 of such permit; provided, however, that the division shall receive written notice of any
 14 such transfer or assignment, and any modification in the use or capacity conditions
 15 contained in the permit or in the lands which are the subject of such permit shall require
 16 the permittee to submit an application for review and approval by the director consistent
 17 with the requirements of this part;

18 (2) Permits for farm use, ~~after initial use has commenced, shall not~~ may be revoked, in
 19 whole or in part, for nonuse after initial use has commenced; if the use has not
 20 commenced within two years after issuance; or if upon demand by the director the
 21 permittee is no longer able to show a need for the water, regardless of whether such
 22 demand is made prior to or after the initial two year period. Periodic idling of use under
 23 a farm use permit due to silvicultural or agricultural rotations or implementation of
 24 Article 9 of this chapter, the 'Flint River Drought Protection Act,' shall not be cause for
 25 revocation;

26 (3) The director may suspend or modify a permit for farm use if he or she should
 27 determine through inspection, investigations, or otherwise that the quantity of water
 28 allowed would prevent other applicants from reasonable use of ground water beneath
 29 their property for farm use;

30 (4) During emergency periods of water shortage, the director shall give first priority to
 31 providing water for human consumption and second priority to farm use; and

32 (5) The importance and necessity of water for industrial purposes are in no way modified
 33 or diminished by this Code section.

34 (c) When there is a constraint on the issuance of new permits for use in any area of the
 35 state, an otherwise qualified new user in such area has made application, and any existing
 36 user or users in such area provide their written consent to revocation of their permits, in
 37 whole or in part, in sufficient amounts, the director may issue a new permit to the applicant.

1 The new permittee must show in such application that there will be no reduction in the
2 water available to other users in the area. The board may provide through rules and the
3 director may provide through permit requirements for other conditions on use as may be
4 needed to prevent unreasonably adverse effects on third parties and the public interest. A
5 new permit issued under this subsection shall be forfeited if use for the stated purpose has
6 not commenced within two years after issuance.

7 (d)(1) The State Soil and Water Conservation Commission shall have the duty of
8 implementing a program of measuring farm uses of water in order to obtain clear and
9 accurate information on the patterns and amounts of such use, which information is
10 essential to proper management of water resources by the state and useful to farmers for
11 improving the efficiency and effectiveness of their use of water, meeting the requirements
12 of paragraph (1) of subsection (b) of this Code section, and improving water
13 conservation. Accordingly, the State Soil and Water Conservation Commission shall on
14 behalf of the state purchase, install, operate, and maintain water-measuring devices for
15 farm uses that are required by this Code section to have permits. As used in this
16 paragraph, the term 'operate' shall include reading the water-measuring device, compiling
17 data, and reporting findings.

18 (2) For purposes of this subsection, the State Soil and Water Conservation Commission:

19 (A) May conduct its duties with commission staff and may contract with other persons
20 to conduct any of its duties;

21 (B) May receive and use state appropriations, gifts, grants, or other sources of funding
22 to carry out its duties;

23 (C) In consultation with the director, shall develop a priority system for installation of
24 water-measuring devices for farm uses that have permits as of July 1, 2003. The
25 commission shall, provided that adequate funding is received, install and commence
26 operation and maintenance of water-measuring devices for all such farm uses by July
27 1, 2009;

28 (D) May charge any permittee the commission's reasonable costs for purchase and
29 installation of a water-measuring device for any farm use permit issued by the director
30 after July 1, 2003; and

31 (E) Shall issue an annual progress report on the status of water-measuring device
32 installation.

33 (3) Any person who desires to commence a farm use for which a permit is issued after
34 July 1, 2003, shall not commence such use prior to the installation of a water-measuring
35 device by the commission.

1 (4) After July 1, 2009, no one shall use water for a farm use required to have a permit
 2 under this Code section without having a water-measuring device in operation that has
 3 been installed by the commission.

4 (5) Employees or agents of the commission are authorized to enter upon private property
 5 at reasonable times to conduct the duties of the commission under this subsection.

6 ~~(c)~~(e) Nothing in this Code section shall be construed as a repeal or modification of Code
 7 Section 12-5-104."

8 **PART IV**
 9 **SECTION 4-1.**

10 The General Assembly finds and declares that:

11 (1) A comprehensive state-wide water management plan for this state is needed and
 12 should be developed;

13 (2) A new agency of government is not required for this purpose, but rather such plan
 14 should be developed by the Environmental Protection Division of the Department of
 15 Natural Resources;

16 (3) Such plan should support a structured yet flexible approach to regional water
 17 planning and provide guidance and incentives for regional and local water planning
 18 efforts;

19 (4) Regional water planning efforts of the Environmental Protection Division should be
 20 coordinated with, and not supplant, the existing efforts of the State Soil and Water
 21 Conservation Commission;

22 (5) Subject to appropriation in a general appropriations Act, funding for the development
 23 of a proposed comprehensive state-wide water management plan should come from the
 24 general revenues of the state treasury, since the creation of such plan will provide benefits
 25 to all citizens of this state; and

26 (6) The director of the Environmental Protection Division should consult with the State
 27 Soil and Water Conservation Commission and other experts to examine mechanisms and
 28 alternatives for funding and implementation of the comprehensive state-wide water
 29 management plan.

30 **SECTION 4-2.**

31 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
 32 is further amended by inserting a new Article 7A to read as follows:

33 "ARTICLE 7A

1 12-5-510.

2 This article shall be known and may be cited as the 'Comprehensive State-wide Water
3 Management Planning Act.'

4 12-5-511.

5 As used in this article, the term:

6 (1) 'Director' means the director of the Environmental Protection Division of the
7 Department of Natural Resources.

8 (2) 'Division' means the Environmental Protection Division of the Department of Natural
9 Resources.

10 (3) 'Committee' means the coordinating committee established under Code Section
11 12-5-516.

12 12-5-512.

13 The general welfare and public interest require that the water resources of this state be put
14 to beneficial use to the fullest extent to which they are capable, subject to reasonable
15 regulation in order to conserve such water resources, to protect natural systems, and to
16 provide and maintain conditions which are conducive to the development and use of such
17 water resources. Accordingly, the division shall develop a proposed comprehensive
18 state-wide water management plan to document state-wide water policies and guide river
19 basin management plans, regional water planning efforts of the division and the State Soil
20 and Water Conservation Commission, and local water plans.

21 12-5-513.

22 (a) The proposed comprehensive state-wide water management plan shall be created in
23 accord with and contain the following policy statement: 'Georgia manages water resources
24 in a sustainable manner to support the state's economy, to protect public health and natural
25 systems, and to enhance the quality of life for all citizens.'

26 (b) The following principles shall guide the work of the division in creating the proposed
27 comprehensive state-wide water management plan:

28 (1) Effective water resources management protects public health and the safety and
29 welfare of Georgia's citizens;

30 (2) Water resources are to be managed in a sustainable manner so that current and future
31 generations have access to adequate supplies of quality water that support both human
32 needs and natural systems;

33 (3) All citizens have a stewardship responsibility to conserve and protect the water
34 resources of Georgia;

1 (4) Water management efforts must recognize that economic prosperity and
2 environmental quality are interdependent;

3 (5) Water quality and quantity and surface and ground water are interrelated and require
4 integrated planning as well as reasonable and efficient use;

5 (6) A comprehensive and accessible data base must be developed to provide sound
6 scientific and economic information upon which effective water management decisions
7 can be based;

8 (7) Water resources management encourages local and regional innovation,
9 implementation, adaptability, and responsibility for watershed and river basin
10 management;

11 (8) Sound water resources management involves meaningful participation, coordination,
12 and cooperation among interested and affected stakeholders and citizens as well as all
13 levels of governmental and other entities managing or utilizing water; and

14 (9) Periodic revisions of the comprehensive state-wide water management plan may be
15 required to accommodate new scientific and policy insights as well as changing social,
16 economic, cultural, and environmental factors.

17 (c) The proposed state-wide comprehensive water management plan shall include as a part
18 thereof a state-wide drought management plan to establish procedures for the identification
19 of conditions that indicate the approach and potential onset of drought and for the use of
20 water in a period of drought when such a period is determined to exist based upon criteria
21 specified in the state-wide drought management plan.

22 12-5-514.

23 Subject to sufficient appropriation of funds, the director is authorized to employ on a
24 full-time or part-time basis such professional personnel and clerical or other employees as
25 may be necessary to discharge the additional duties delegated to the division by this article.

26 12-5-515.

27 (a) The division shall work in cooperation, coordination, and communication with the
28 coordinating committee created by Code Section 12-5-516 and any other state, local,
29 regional, or federal agency as appropriate to complete the proposed comprehensive
30 state-wide water management plan.

31 (b) The division shall complete the proposed comprehensive state-wide water management
32 plan and the director shall submit the final draft of such proposed plan to the coordinating
33 committee for review not later than three years after the effective date of this article.

34 12-5-516.

1 (a) There shall be a coordinating committee composed of the following state officials who
 2 shall serve ex officio as members of the committee: commissioner of natural resources;
 3 director of the Environmental Protection Division of the Department of Natural Resources;
 4 executive director of the State Soil and Water Conservation Commission, commissioner
 5 of community affairs, commissioner of human resources, Attorney General, Commissioner
 6 of Agriculture, and commissioner of industry, trade, and tourism. In addition, the
 7 chairpersons of the Senate Natural Resources and the Environment Committee and the
 8 House Committee on Natural Resources and Environment shall serve ex officio in an
 9 advisory capacity to the committee to provide a legislative perspective in discussions and
 10 to build institutional knowledge of the nuances of the state-wide comprehensive water
 11 planning process in the General Assembly. The director shall serve as chairperson of the
 12 committee.

13 (b) The committee shall:

14 (1) Ensure coordination, cooperation, and communication among state agencies and their
 15 water related efforts in the development of any proposed comprehensive state-wide water
 16 management plan;

17 (2) Review the final draft of the proposed comprehensive state-wide water management
 18 plan upon submission by the director to determine implications of the plan for
 19 responsibilities and authority of their respective agencies and needs for implementing
 20 legislation; and

21 (3) Recommend such proposed plan at the regular session of the General Assembly next
 22 occurring after such completion for consideration and enactment of implementing
 23 legislation by the General Assembly.

24 12-5-517.

25 No comprehensive state-wide water management plan prepared pursuant to this article shall
 26 have any force or effect unless a general law implementing such plan or authorizing the
 27 implementation of such plan is enacted by the General Assembly.

28 12-5-518.

29 The Board of Natural Resources may adopt and modify from time to time such rules and
 30 regulations as are reasonable and necessary to implement this article."

31 **PART V**

32 **SECTION 5-1.**

33 All laws and parts of laws in conflict with this Act are repealed.