

Senate Bill 180

By: Senators Kemp of the 3rd, Bulloch of the 11th, Hooks of the 14th, Harp of the 16th, Adelman of the 42nd and others

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 provide for comprehensive state water planning; to provide legislative findings and
6 declarations; to change certain provisions relating to declaration of policy and legislative
7 intent relative to control of water pollution and surface-water use; to change certain
8 provisions relating to permits for withdrawal, diversion, or impoundment of surface waters
9 and monitoring, recording, and reporting water withdrawn by certain irrigation systems; to
10 change certain provisions relating to declaration of policy relative to ground-water use
11 generally; to change certain provisions relating to permits to withdraw, obtain, or use ground
12 water, water conservation plans, factors to be considered, notice of official acts,
13 administrative hearings, and judicial review; to change certain provisions relating to duration
14 of permits, renewal, transfer, certified statements by holders, monitoring water use, granting
15 permits to persons withdrawing ground water prior to July 1, 1973, prior investments in land
16 and nature of plans for water use, and continued withdrawals pending decision on permits;
17 to change certain provisions relating to ground-water permits for farm uses, notice of transfer
18 or modification in use or capacity, nonuse, suspension or modification, priority uses, and no
19 effect on existing common or statutory law; to change certain provisions relating to river
20 basin management plans; to provide a short title; to provide an effective date; to provide for
21 effect on certain rights and standing; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **PART I**
24 **SECTION 1-1.**

25 This Act shall be known and may be cited as the "Georgia Water Planning Act of 2003."

SECTION 1-2.

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

"(7.1) To formulate such rules and regulations and to exercise such powers as are necessary to perform its duties under subsection (m) of Code Section 12-5-31 and subsection (c) of Code Section 12-5-105;".

SECTION 1-3.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by inserting a new Code section to read as follows:

"12-5-6.

The surface and ground waters of Georgia are interrelated in a single hydrologic system and require integrated planning and management. Georgia's rivers, streams, and aquifers flow long distances and support natural aquatic ecosystems, while providing many communities economic, social, and environmental benefits. Georgia's current system of management of surface and ground waters embodies its common-law tradition of riparian rights, whereby Georgia's landowners are entitled to reasonable use of water flowing over, adjacent to, and underneath their property. It is, therefore, hereby declared to be the policy of the State of Georgia that the water in Georgia is to be managed for the public benefit in a way that respects the quality of natural river systems and preserves the state's water resources for future generations and makes clear that Georgia does not view its water resources as a commodity but rather manages water as a resource shared equally by the people of Georgia, but such policy does not in itself create any new legal right or status not already in force immediately prior to the effective date of this Code section. The state is responsible for maintaining these water resources for the maximum physical and economic benefit of the people while sustaining a safe yield and a respect for natural systems, including ground water, headwaters, and estuaries."

PART II**SECTION 2-1.**

Said chapter is further amended by striking Code Section 12-5-21, relating to declaration of policy and legislative intent relative to control of water pollution and surface-water use, and inserting in lieu thereof the following:

1 "12-5-21.

2 (a) ~~The people of the State of Georgia are dependent upon the rivers, streams, lakes, and~~
 3 ~~subsurface waters of the state for public and private water supply and for agricultural,~~
 4 ~~industrial, and recreational uses. It is therefore declared to be the policy of the State of~~
 5 ~~Georgia that the water resources of the state shall be utilized prudently for the maximum~~
 6 ~~benefit of the people, in order to restore and maintain a reasonable degree of purity in the~~
 7 ~~waters of the state and an adequate supply of such waters, and to require where necessary~~
 8 ~~reasonable usage of the waters of the state and reasonable treatment of sewage, industrial~~
 9 ~~wastes, and other wastes prior to their discharge into such waters. To achieve this end, the~~
 10 ~~government of the state shall assume responsibility for the quality and quantity of such~~
 11 ~~water resources and the establishment and maintenance of a water quality and water~~
 12 ~~quantity control program adequate for present needs and designed to care for the future~~
 13 ~~needs of the state, provided that nothing contained in this article shall be construed to~~
 14 ~~waive the immunity of the state for any purpose.~~

15 (b) The achievement of the purposes described in subsection (a) of this Code section
 16 requires that the Environmental Protection Division of the Department of Natural
 17 Resources be charged with the duty described in that subsection, and that it have the
 18 authority to regulate the withdrawal, diversion, or impoundment of the surface waters of
 19 the state, and to require the use of reasonable methods after having considered the technical
 20 means available for the reduction of pollution and economic factors involved to prevent
 21 and control the pollution of the waters of the state.

22 (c) Further, it is the intent of this article to establish within the executive branch of the
 23 government administrative facilities and procedures for determining improper usage of the
 24 surface waters of the state and pollution of the waters of the state, and to confer
 25 discretionary administrative authority upon the Environmental Protection Division to take
 26 these and related circumstances into consideration in its decisions and actions in
 27 determining, under the conditions and specific cases, those procedures which will best
 28 protect the public interest."

29 **SECTION 2-2.**

30 Said chapter is further amended by striking Code Section 12-5-31, relating to permits for
 31 withdrawal, diversion, or impoundment of surface waters and monitoring, recording, and
 32 reporting water withdrawn by certain irrigation systems, and inserting in lieu thereof the
 33 following:

34 "12-5-31.

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

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

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

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

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

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

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

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

23 (A) Any such withdrawal which does not involve more than 100,000 gallons per day
 24 on a monthly average;

25 (B) Any such diversion which does not reduce the flow of the surface waters at the
 26 point where the watercourse, prior to diversion, leaves the person's or persons' property
 27 or properties on which the diversion occurred, by more than 100,000 gallons per day
 28 on a monthly average;

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

32 (D) Any such impoundment which does not reduce the flow of the surface waters
 33 immediately downstream of the impoundment by more than 100,000 gallons per day
 34 on a monthly average.

35 (2) No permit shall be required for a reduction of flow of surface waters during the
 36 period of construction of an impoundment, including the initial filling of the

1 ~~impoundment, or for farm ponds or farm impoundments constructed and managed for the~~
 2 ~~sole purpose of fish, wildlife, recreation, or other farm uses.~~

3 (3) Notwithstanding any other provision of this Code section to the contrary, a permit for
 4 the withdrawal or diversion of surface waters for farm uses shall be issued by the director
 5 to any person when the applicant submits an application which provides reasonable proof
 6 that the applicant's farm use of surface waters occurred prior to July 1, 1988, and when
 7 any such application is submitted prior to July 1, 1991. If submitted prior to July 1, 1991,
 8 an application for a permit to be issued based upon farm uses of surface waters occurring
 9 prior to July 1, 1988, shall be granted for the withdrawal or diversion of surface waters
 10 at a rate of withdrawal or diversion equal to the greater of the operating capacity in place
 11 for withdrawal or diversion on July 1, 1988, or, when measured in gallons per day on a
 12 monthly average for a calendar year, the greatest withdrawal or diversion capacity during
 13 the five-year period immediately preceding July 1, 1988. If submitted after July 1, 1991,
 14 or, regardless of when submitted, if it is based upon a withdrawal or diversion of surface
 15 waters for farm uses occurring or proposed to occur on or after July 1, 1988, an
 16 application shall be subject to evaluation and classification pursuant to subsections (e),
 17 (f), and (g) of this Code section, but a permit based upon such evaluation and
 18 classification ~~shall~~ may be issued to ensure the applicant's right to a reasonable use of
 19 such surface waters. Any permit issued pursuant to this paragraph shall be conditioned
 20 upon the requirement that the permittee shall provide, on forms prescribed by the
 21 director, information relating to a general description of the lands and number of acres
 22 subject to irrigation and the permit; a description of the general type of irrigation system
 23 used; the source of withdrawal water such as river, stream, or impoundment; and pump
 24 information, including rated capacity, pump location, and power information. Permits
 25 issued under this paragraph shall have no term and may be transferred or assigned to
 26 subsequent owners of the lands which are the subject of such permit; provided, however,
 27 that the division shall receive written notice of any such transfer or assignment. Any
 28 modification in the use or capacity conditions contained in the permit or in the lands
 29 which are the subject of such permit shall require the permittee to submit an application
 30 for review and approval by the director consistent with this Code section. Nothing in this
 31 paragraph shall be construed as a repeal or modification of Code Section 12-5-46.

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

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

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

36 ~~(3) 'Farm uses' means irrigation of any land used for general farming, forage,~~
 37 ~~aquaculture, pasture, turf production, orchards, or tree and ornamental nurseries;~~

1 ~~provisions of water supply for farm animals, poultry farming, or any other activity~~
 2 ~~conducted in the course of a farming operation. Farm uses shall also include the~~
 3 ~~processing of perishable agricultural products and the irrigation of recreational turf,~~
 4 ~~except in the Chattahoochee River watershed upstream from Peachtree Creek, where~~
 5 ~~irrigation of recreational turf shall not be considered a farm use.~~

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

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

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

15 (c) To obtain a permit pursuant to this Code section, the applicant must establish that the
 16 proposed withdrawal, diversion, or impoundment of surface waters is consistent with this
 17 article. The director shall not grant any such surface-water permits or modifications or
 18 renewals thereof inconsistent with the provisions of Article 8 of this chapter, the
 19 comprehensive state water plan developed pursuant to such article, or any applicable river
 20 basin management plan developed pursuant to such article. No person shall be eligible for
 21 a permit under this Code section unless such person owns land immediately adjacent to the
 22 surface water which is to be withdrawn, diverted, or impounded. Permits issued under this
 23 Code section shall not be transferable except as provided in paragraph (3) of subsection (b)
 24 of this Code section.

25 (d) All permit applications filed with the director under this Code section shall contain the
 26 name and address of the applicant or, in the case of a corporation, the address of its
 27 principal business office in this state; the date of filing; the source of the water supply; the
 28 quantity of water applied for; the use to be made of the water and any limitation thereon;
 29 the place of use; the location of the withdrawal, diversion, or impoundment; for those
 30 permits which indicate an increase in water usage, ~~except for permits solely for agricultural~~
 31 ~~use;~~ a water conservation plan approved by the director and prepared based on guidelines
 32 issued by the director, compliance with which shall be a condition of any permit issued
 33 pursuant to such application; and such other information as the director may deem
 34 necessary; provided, however, that any required information already provided the director
 35 by the applicant in the context of prior dealings with the division, which information is still
 36 correct, may be incorporated into the application by adequate reference to same. The

1 director shall collect and disseminate such technical information as the director deems
2 appropriate to assist applicants in the preparation of water conservation plans.

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

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

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

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

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

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

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

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

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

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

27 (10) The varying circumstances of each case.

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

34 (g) The division shall take into consideration the extent to which any withdrawals,
35 diversions, or impoundments are reasonably necessary, in the judgment of the director, to
36 meet the applicant's needs and ~~shall~~ may grant a permit which shall meet those reasonable
37 needs; provided, however, that the granting of such permit shall not have unreasonably

1 adverse effects upon other water uses in the area, including but not limited to public use,
2 farm use, and potential as well as present use; and provided, further, that the director shall
3 grant a permit to any permit applicant who on July 1, 1977, has outstanding indebtedness
4 in the form of revenue certificates or general obligation bonds which are being amortized
5 through the sale of surface water, the permitted quantity of which shall be at least in an
6 amount consistent with that quantity for which the revenue certificates or general
7 obligation bonds were issued.

8 (h) Except for applications filed pursuant to paragraph (3) of subsection (a) of this Code
9 section, permits may be granted for any period of time not less than ten years, unless the
10 applicant requests a shorter period of time, nor more than 50 years. The director may base
11 the duration of such permits on any reasonable system of classification based upon but not
12 necessarily limited to such factors as source of supply and type of use. In evaluating any
13 application for a permit for the use of water for a period of 25 years or more, the director
14 shall evaluate the condition of the water supply to assure that the supply is adequate to
15 meet the multiple needs of the citizens of the state as can reasonably be projected for the
16 term of the permit and ensure that the issuance of such permit is based upon a water
17 development and conservation plan for the applicant ~~or for the region~~. Such water
18 development and conservation plan for the applicant ~~or for the region~~ shall promote the
19 conservation and reuse of water within the state, guard against a shortage of water within
20 the state, promote the efficient use of the water resource, and be consistent with the public
21 welfare of the state. The board shall promulgate regulations for implementation of this
22 subsection, including provisions for review of such permits periodically or upon a
23 substantial reduction in average annual volume of the water resource which adversely
24 affects water supplies to determine that the permittee continues in compliance with the
25 conditions of the permit and that the plan continues to meet the overall supply requirements
26 for the term of the permit. ~~In the event the director determines that a regional plan is~~
27 ~~required in connection with any application for a permit for the use of water for a period~~
28 ~~of 25 years or more, the division or a person or entity designated by the division may~~
29 ~~develop such a plan. Such regional plan shall include water development, conservation, and~~
30 ~~sustainable use and shall be based upon detailed scientific analysis of the water source, the~~
31 ~~projected future condition of the resource, current demand, and estimated future demands~~
32 ~~on the resource.~~

33 (i) A permittee may seek modification of any of the terms of an issued permit. The director
34 may approve the proposed modification if the permittee establishes that a change in
35 conditions has resulted in a need by the permittee of more water than is allowed under the
36 existing permit, or that the proposed modification would result in a more efficient
37 utilization of water than is possible under the existing permit, or that a proposed change in

1 conditions would result in a need by the permittee of more water than is allowed under the
2 existing permit. Any such modification shall be consistent with the health and safety of the
3 citizens of this state and with this article and shall require compliance with a water
4 conservation plan approved by the director as a condition of such modification. In any
5 administrative review proceeding resulting from an action of the director under this
6 subsection, the burden of proof in establishing that the requisite criteria have been met shall
7 be upon the person seeking such modification.

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

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

14 (1) For any material false statement in an application for a permit to initiate, modify, or
15 continue a use of surface waters, or for any material false statement in any report or
16 statement of fact required of the permittee pursuant to this Code section or pursuant to
17 the conditions contained in a permit granted under this Code section, the director may
18 revoke the user's permit, in whole or in part, permanently or temporarily;

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

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

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

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

32 (6) The director may suspend or modify a permit, except farm use permits, if he or she
33 should determine through inspection, investigation, or otherwise that the quantity of
34 water allowed under the permit is greater than that needed by the permittee for the
35 particular use upon which the application for permit was based or would prevent other
36 applicants from reasonable use of surface waters, including farm uses;

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

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

8 (1) ~~Emergency period of water shortage:~~

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

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

1 request a hearing in accordance with subsection (c) of Code Section 12-2-2 shall waive
2 such right;

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

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

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

11 ~~(m) Except for farm use permits issued pursuant to paragraph (3) of subsection (a) of~~ For
12 all permits, including without limitation farm use permits, issued under this Code section,
13 whenever required to carry out the objectives of this Code section, including but not limited
14 to determining whether or not any person is in violation of any provision of this Code
15 section or any rule or regulation promulgated pursuant ~~hereto~~ to this Code section;
16 encouraging or ensuring compliance with any provision of this Code section or any rule or
17 regulation promulgated pursuant ~~hereto~~ to this Code section; determining whether or not
18 any person is in violation of any permit condition; or establishing a data bank on the usage
19 of surface waters in a particular area or areas of this state, the director may by order,
20 permit, or otherwise, in writing, require any person holding a permit under this Code
21 section, or any other person who the director reasonably believes is withdrawing, diverting,
22 or impounding surface waters in violation of the permitting requirements of this Code
23 section, to:

24 (1) Establish and maintain records;

25 (2) Make reports;

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

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

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

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

1 the State Soil and Water Conservation Commission shall on behalf of the state purchase,
 2 install, operate, and maintain water-measuring devices for farm uses that are required by
 3 this Code section to have permits. As used in this paragraph, the term 'operate' shall
 4 include reading the water-measuring device, compiling data, and reporting findings.

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

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

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

10 (C) In consultation with the director, shall develop a priority system for installation of
 11 water-measuring devices for farm uses that have permits as of July 1, 2003. The
 12 commission shall, provided that adequate funding is received, install and commence
 13 operation and maintenance of water-measuring devices for all such farm uses by July
 14 1, 2009;

15 (D) May charge any permittee the commission's reasonable costs for purchase and
 16 installation of a water-measuring device for any farm use permit issued by the director
 17 after July 1, 2003; however, for permit applications submitted to the division prior to
 18 December 31, 2002, no charge shall be made for such costs; and

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

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

24 (4) Subject to the provisions of subparagraph (C) of paragraph (2) of this subsection,
 25 after July 1, 2009, no one shall use water for a farm use required to have a permit under
 26 this Code section without having a water-measuring device in operation that has been
 27 installed by the commission.

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

30 (n)(o)(1) As used in this subsection, the term:

31 (A) 'Basin' means the Altamaha, Chattahoochee, Coosa, Flint, Ochlockonee,
 32 Ocmulgee, Oconee, Ogeechee, St. Marys, Satilla, Savannah, Suwannee, Tallapoosa, or
 33 Tennessee river basin.

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

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

4 (D) 'Receiving basin' means the basin into which the discharge of all or any part of
 5 withdrawn, diverted, or pumped surface waters occurs.

6 (E) 'Temporary emergency' means when specific facts shown by affidavits of residents
 7 of the affected area of the state demonstrate to the satisfaction of the Governor that an
 8 emergency period of water shortage exists within such area so as to place in jeopardy
 9 the health or safety of the citizens of such area or to threaten serious harm to the water
 10 resources of the area.

11 (2) In the consideration of applications for permits which if granted would authorize the
 12 withdrawal and transfer of surface waters across natural basins an interbasin transfer, the
 13 director shall be bound by the following requirements:

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

18 (B) Any interbasin transfer shall be prohibited unless:

19 (i) Such interbasin transfer was lawfully occurring immediately prior to the effective
 20 date of this subsection; or

21 (ii) Such interbasin transfer is ordered by the Governor to respond to a temporary
 22 emergency. Prior to approval of an interbasin transfer permit in a temporary
 23 emergency, the Governor shall instruct the director to examine the affected area to
 24 ensure that existing water withdrawal permits are in compliance with the
 25 comprehensive state water plan and the applicable river basin management plan,
 26 including full implementation of conservation measures. Any interbasin transfer
 27 permit approved pursuant to a temporary emergency shall be effective only for the
 28 duration of the temporary emergency; and

29 (C) The director shall provide a press release regarding the proposed issuance of all
 30 any permits authorizing such interbasin transfer of surface waters to newspapers of
 31 general circulation in all areas of the state which would be affected by such issuance.
 32 The press release shall be provided at least ~~seven~~ 30 days before the issuance of ~~these~~
 33 any such permits; except in the case of a temporary emergency when such delay in
 34 issuing the permit is not warranted as determined by the director, in which case the
 35 press release shall be provided not later than concurrently with the issuance of the
 36 permit. If the director ~~should determine~~ determines that sufficient public interest
 37 warrants a public hearing on the issuance of ~~these~~ any such permits, he or she shall

1 cause such a hearing to be held somewhere in the area affected prior to the issuance of
2 ~~these~~ any such permits.

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

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

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

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

32 **PART III**

33 **SECTION 3-1.**

34 Said chapter is further amended by striking Code Section 12-5-91, relating to declaration of
35 policy relative to ground-water use generally, and inserting in lieu thereof the following:

1 "12-5-91.

2 ~~The general welfare and public interest require that the water resources of the state be put~~
 3 ~~to beneficial use to the fullest extent to which they are capable, subject to reasonable~~
 4 ~~regulation in order to conserve these resources and to provide and maintain conditions~~
 5 ~~which are conducive to the development and use of water resources Reserved.~~"

6 **SECTION 3-2.**

7 Said chapter is further amended by striking Code Section 12-5-96, relating to permits to
 8 withdraw, obtain, or use ground water; water conservation plans; factors to be considered;
 9 notice of official acts; administrative hearings; and judicial review; and Code Section
 10 12-5-97, relating to duration of permits, renewal, transfer, certified statements by holders,
 11 monitoring water use, granting permits to persons withdrawing ground water prior to July
 12 1, 1973, prior investments in land and nature of plans for water use, and continued
 13 withdrawals pending decision on permits, and inserting in lieu thereof the following:

14 "12-5-96.

15 (a)(1) No person shall withdraw, obtain, or utilize ground waters in excess of 100,000
 16 gallons per for any purpose unless such person shall first obtain a permit therefor from
 17 the division. The division shall not grant any such ground-water permits or modifications
 18 or renewals thereof inconsistent with the provisions of Article 8 of this chapter, the
 19 comprehensive state water plan developed pursuant to such article, or any applicable
 20 ground-water management plan developed pursuant to such article. No person shall be
 21 eligible for a permit under this part unless such person owns land directly above the
 22 ground water which is to be withdrawn, obtained, or utilized. Permits issued under this
 23 part shall not be transferable except as provided in subsection (b) of Code Section
 24 12-5-105.

25 (2) Any person applying for a permit or a permit modification under this part ~~which~~
 26 ~~indicates an increase in water usage, except for permits for solely agricultural usage, shall~~
 27 ~~also submit with such an application which contains the name and address of the~~
 28 applicant or, in the case of a corporation, the address of its principal business office in
 29 this state; the date of filing; the source of the water supply; the quantity of water applied
 30 for; the use to be made of the water and any limitation thereon; the place of use; the
 31 location of the withdrawal or use; for those permits which indicate an increase in water
 32 usage, a water conservation plan approved by the director and based on guidelines issued
 33 by the director, compliance with which shall be a condition of any permit issued pursuant
 34 to such application; and such other information as the director may deem necessary;
 35 provided, however, that any required information already provided the director by the
 36 applicant in the context of prior dealings with the division, which information is still

1 correct, may be incorporated into the application; by adequate reference to same. The
2 director shall collect and disseminate such technical information as the director deems
3 appropriate to assist in the preparation of water conservation plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (10) Any other relevant factors.

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

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

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

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

34 (A) 'Basin' means the Altamaha, Chattahoochee, Coosa, Flint, Ochlockonee,
35 Ocmulgee, Oconee, Ogeechee, St. Marys, Satilla, Savannah, Suwannee, Tallapoosa, or
36 Tennessee river basin.

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

3 (C) 'Interbasin transfer' means the withdrawal, diversion, or pumping of ground water
 4 from a point within or beneath any basin of origin and the discharge of all or any part
 5 of that water into a different receiving basin by means of pipes, conduits, ditches, or
 6 canals.

7 (D) 'Receiving basin' means the basin into which the discharge of all or any part of
 8 withdrawn, diverted, or pumped ground water occurs.

9 (E) 'Temporary emergency' means when specific facts shown by affidavits of residents
 10 of the affected area of the state demonstrate to the satisfaction of the Governor that an
 11 emergency period of water shortage exists within such area so as to place in jeopardy
 12 the health or safety of the citizens of such area or to threaten serious harm to the water
 13 resources of the area.

14 (2) In the consideration of applications for permits which if granted would authorize an
 15 interbasin transfer, the director shall be bound by the following requirements:

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

20 (B) Any interbasin transfer shall be prohibited unless:

21 (i) Such interbasin transfer was lawfully occurring immediately prior to the effective
 22 date of this subsection; or

23 (ii) Such interbasin transfer is ordered by the Governor to respond to a temporary
 24 emergency. Prior to approval of an interbasin transfer permit in a temporary
 25 emergency, the Governor shall instruct the director to examine the affected area to
 26 ensure that existing water withdrawal permits are in compliance with the
 27 comprehensive state water plan and the applicable river basin management plan,
 28 including full implementation of conservation measures. Any interbasin transfer
 29 permit approved pursuant to a temporary emergency shall be effective only for the
 30 duration of the temporary emergency; and

31 (C) The director shall provide a press release regarding the proposed issuance of any
 32 permits authorizing such interbasin transfer of ground water to newspapers of general
 33 circulation in all areas of the state which would be affected by such issuance. The press
 34 release shall be provided at least 30 days before the issuance of any such permits;
 35 except in the case of a temporary emergency when such delay in issuing the permit is
 36 not warranted as determined by the director, in which case the press release shall be
 37 provided not later than concurrently with the issuance of the permit. If the director

1 determines that sufficient public interest warrants a public hearing on the issuance of
 2 any such permits, he or she shall cause such a hearing to be held somewhere in the area
 3 affected prior to the issuance of any such permits.

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

8 (2) Except as otherwise provided in Code Section 12-5-102 for emergency orders, any
 9 person who is aggrieved or adversely affected by any order or action of the director
 10 pursuant to this Code section shall, upon petition within 30 days after the issuance of such
 11 order or the taking of such action, have a right to a hearing before an administrative law
 12 judge appointed by the Board of Natural Resources. The hearing before the
 13 administrative law judge shall be conducted in accordance with Chapter 13 of Title 50,
 14 the 'Georgia Administrative Procedure Act,' and the rules and regulations adopted by the
 15 board pursuant ~~thereto~~ to such chapter. Any administrative law judge so appointed by the
 16 board shall fully meet and qualify as to all applicable conflict of interest requirements
 17 provided for in Section 304(h)(2)(D) of the Federal Water Pollution Control Act
 18 Amendments of 1972, as amended, and the rules, regulations, and guidelines promulgated
 19 ~~thereunder~~ pursuant to such provision of federal law. The decision of the administrative
 20 law judge shall constitute the final decision of the board. Any party to the hearing,
 21 including the director, shall have a right of judicial review thereof in accordance with
 22 Chapter 13 of Title 50, including the right to seek judicial review in the superior court in
 23 the county of the applicant's or permittee's residence. For the purposes of this part, such
 24 review is also specifically subject to subsection (a) of Code Section 50-13-19.

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

33 12-5-97.

34 (a) Except for applications filed pursuant to subsection (a) of Code Section 12-5-105,
 35 permits under Code Section 12-5-96 may be granted for any period of time not less than
 36 ten years, unless the applicant requests a shorter period of time, nor more than 50 years.

1 The director may base the duration of such permits on any reasonable system of
2 classification based upon but not necessarily limited to such factors as source of supply and
3 type of use. In evaluating any application for a permit for the use of water for a period of
4 25 years or more, the director shall evaluate the condition of the water supply to assure that
5 the supply is adequate to meet the multiple needs of the citizens of the state as can
6 reasonably be projected for the term of the permit and ensure that the issuance of such
7 permit is based upon a water development and conservation plan for the applicant ~~or for~~
8 ~~the region~~. Such ~~regional~~ plan shall promote the conservation and reuse of water within the
9 state, guard against a shortage of water within the state, promote the efficient use of the
10 water resource, and be consistent with the public welfare of the state. The board shall
11 promulgate regulations for implementation of this subsection, including provisions for
12 review of such permits periodically or upon a substantial reduction in average annual
13 volume of the water resource which adversely affects water supplies to determine that the
14 permittee continues in compliance with the conditions of the permit. ~~In the event the~~
15 ~~director determines that a regional plan is required in connection with any application for~~
16 ~~a permit for the use of water for a period of 25 years or more, the division or a person or~~
17 ~~entity designated by the division shall develop a plan as provided in subsection (e) of Code~~
18 ~~Section 12-5-96.~~

19 (b) Permits may be renewed at any time within six months prior to the date of their
20 expiration upon compliance with Code Section 12-5-96.

21 (c) Except as provided in paragraph (1) of subsection (b) of Code Section 12-5-105,
22 permits shall not be transferred ~~except with the approval of the division~~.

23 (d) Except as provided in paragraph (1) of subsection (b) of Code Section 12-5-105, every
24 person who is required by this part to secure a permit shall file with the division, in the
25 manner prescribed by the division, a certified statement of quantities of water used and
26 withdrawn, sources of water, and the nature of the use thereof not more frequently than at
27 30 day intervals. Such statements shall be filed on forms furnished by the division within
28 90 days after the issuance of regulations. Water users not required to secure a permit shall
29 comply with procedures established to protect and manage the water resources of the state.
30 Such procedures shall be within the provisions of this part and shall be adopted after public
31 hearing. The requirements embodied in the two preceding sentences shall not apply to
32 individual domestic water use.

33 (e) If any person who is required to secure a permit under this part is unable to furnish
34 accurate information concerning amounts of water being withdrawn or used, or if there is
35 evidence that his or her certified statement is false or inaccurate or that he or she is
36 withdrawing or using a larger quantity of water or under different conditions than has been
37 authorized by the division, the division shall have the authority to require such person to

1 install water meters or some other more economical means for measuring water use
 2 acceptable to the division. In determining the amount of water being withdrawn or used by
 3 a permit holder or applicant, the division may use the rated capacity of his or her pumps,
 4 the rated capacity of his or her cooling system, data furnished by the applicant, or the
 5 standards or methods employed by the United States Geological Survey in determining
 6 such quantities or by any other accepted method.

7 (f) In any case where a permit applicant can prove to the division's satisfaction that the
 8 applicant was withdrawing or using water prior to July 1, 1973, the division shall take into
 9 consideration the extent to which any uses or withdrawals were reasonably necessary, in
 10 the judgment of the division, to meet his or her needs and shall grant a permit which shall
 11 meet those reasonable needs; provided, however, that the granting of such permit shall not
 12 have unreasonably adverse effects upon other water uses in the area, including public use,
 13 and including potential as well as present use.

14 (g) The division shall also take into consideration in the granting of any permit the prior
 15 investments of any person in lands and the nature of any plans for the usage of water in
 16 connection with such lands, which plans have been submitted to the division within a
 17 reasonable time after July 1, 1973, or, if for farm uses, after July 1, 1988; provided,
 18 however, that the granting of such permit shall not have unreasonably adverse effects upon
 19 other water uses in the area, including public use, and including potential as well as present
 20 use.

21 (h) Pending the issuance or denial of a permit pursuant to subsection (f) or (g) of this Code
 22 section, the applicant may continue the same withdrawal or use which existed prior to July
 23 1, 1973."

24 SECTION 3-3.

25 Said chapter is further amended by striking Code Section 12-5-105, relating to ground-water
 26 permits for farm uses, notice of transfer or modification in use or capacity, nonuse,
 27 suspension or modification, priority uses, and no effect on existing common or statutory law,
 28 and inserting in lieu thereof the following:

29 "12-5-105.

30 (a) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the
 31 contrary, a permit to withdraw, obtain, or utilize ground waters for farm uses, as that term
 32 is defined by paragraph ~~(4)~~ (5.1) of Code Section 12-5-92, shall be issued by the director
 33 to any person when the applicant submits an application which provides reasonable proof
 34 that the applicant's farm use of ground water occurred prior to July 1, 1988, and when such
 35 application is submitted prior to July 1, 1991. If submitted prior to July 1, 1991, an
 36 application for a permit to be issued based upon farm uses of ground water occurring prior

1 to July 1, 1988, shall be granted for the withdrawal of ground water at a rate of withdrawal
2 equal to the greater of the operating capacity in place for withdrawal on July 1, 1988, or,
3 when measured in gallons per day on a monthly average for a calendar year, the greatest
4 withdrawal capacity during the five-year period immediately preceding July 1, 1988. If
5 submitted after July 1, 1991, or, regardless of when submitted, if it is based upon a
6 withdrawal of ground water for farm uses occurring or proposed to occur on or after July
7 1, 1988, an application shall be subject to evaluation and classification pursuant to Code
8 Sections 12-5-96 and 12-5-97, but a permit based upon such evaluation and classification
9 ~~shall~~ may be issued to ensure the applicant's right to a reasonable use of such ground water.
10 Any permit issued pursuant to this Code section shall be further conditioned upon the
11 requirement that the permittee shall provide, on forms prescribed by the director,
12 information relating to a general description of the lands and number of acres subject to
13 irrigation and the permit; the name and address of the permittee; a description of the
14 general type of irrigation system used; well construction; and pump information, including
15 rated capacity, pump setting depth, and power information.

16 (b) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the
17 contrary, permits to withdraw, obtain, or utilize ground waters for farm uses, as that term
18 is defined in paragraph ~~(10)~~ (5.1) of Code Section 12-5-92, whether for new withdrawals
19 or under subsection (a) of this Code section, shall be governed as follows:

20 (1) A permit issued for farm uses shall have no annual reporting requirements and no
21 term and may be transferred or assigned to subsequent owners of the lands which are the
22 subject of such permit; provided, however, that the division shall receive written notice
23 of any such transfer or assignment, and any modification in the use or capacity conditions
24 contained in the permit or in the lands which are the subject of such permit shall require
25 the permittee to submit an application for review and approval by the director consistent
26 with the requirements of this part;

27 (2) Permits for farm use, after initial use has commenced, shall not be revoked, in whole
28 or in part, for nonuse;

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

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

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

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

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

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

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

16 (C) In consultation with the director, shall develop a priority system for installation of
 17 water-measuring devices for farm uses that have permits as of July 1, 2003. The
 18 commission shall, provided that adequate funding is received, install and commence
 19 operation and maintenance of water-measuring devices for all such farm uses by July
 20 1, 2009;

21 (D) May charge any permittee the commission's reasonable costs for purchase and
 22 installation of a water-measuring device for any farm use permit issued by the director
 23 after July 1, 2003; however, for permit applications submitted to the division prior to
 24 December 31, 2002, no charge shall be made for such costs; and

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

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

30 (4) Subject to the provisions of subparagraph (C) of paragraph (2) of this subsection,
 31 after July 1, 2009, no one shall use water for a farm use required to have a permit under
 32 this Code section without having a water-measuring device in operation that has been
 33 installed by the commission.

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

36 (e)(d) Nothing in this Code section shall be construed as a repeal or modification of Code
 37 Section 12-5-104."

1 **PART IV**

2 **SECTION 4-1.**

3 Said chapter is further amended by striking Article 8, relating to river basin management
4 plans, and inserting in lieu thereof the following:

5 "ARTICLE 8

6 12-5-520.

7 As used in this article, the term:

8 (1) 'Biological integrity' means the maintenance of water in a water source in the volume
9 and at the times necessary to support and maintain wetlands and wildlife, including fish,
10 flora, and fauna, insofar as protection of either is required by federal or state laws or
11 regulations.

12 (2) 'Chemical integrity' means the maintenance of water in a water source in the volume
13 and at the times necessary to enable such water source to achieve the water quality
14 standards prescribed for the water source by federal or state laws or regulations in light
15 of authorized effluent discharges and other expected impacts on the water source.

16 (3) 'Comprehensive state water plan' means the plan developed under the Water Planning
17 Division of the Department of Natural Resources pursuant to subsection (d) of Code
18 Section 12-5-522 that encompasses river basin management plans, comprehensive
19 ground-water management plans, and any water management plans promulgated by the
20 Metropolitan North Georgia Water Planning District.

21 (4) 'Conservation measures' means any measures designed to reduce withdrawals or
22 consumptive uses of water, including, but not limited to, improvements in transmission
23 and water use efficiency, reduction in water use, reduction in water waste, enhancement
24 of return flows, and reuse of return flows so long as such reuse is not a consumptive use.

25 (5) 'Consumptive use' means any use of water that is not a nonconsumptive use,
26 including, but not limited to, evaporation or the incorporation of water into a product or
27 crop.

28 (6) 'Department' means the Department of Natural Resources.

29 (7) 'Division' means the Water Planning Division the Department of Natural Resources.

30 (8) 'Ground water' shall be defined as in paragraph (6) of Code Section 12-5-92.

31 (9) 'Nonconsumptive use' means a use of withdrawn water in such a manner that it is
32 returned to its waters of origin at or near its point of withdrawal without substantial
33 diminution in quality or quantity and without resulting in or exacerbating a low flow
34 condition.

35 (10) 'Physical integrity' means the volume of water in a water source necessary to:

- 1 (A) Support commercial navigation of the water source as required by federal or state
2 law or regulation;
- 3 (B) Preserve natural, cultural, or historic resources as determined by or as required by
4 federal and state law or regulation;
- 5 (C) Provide adequate recreational opportunities to the people of Georgia; and
6 (D) Prevent serious depletion or exhaustion of the water source.
- 7 (11) 'Reasonable use' means the use of water, whether in place or through withdrawal,
8 in such quantity or manner as is necessary for efficient economic utilization without
9 waste of water, without unnecessary injury to other water users, and consistent with the
10 public interest.
- 11 (12) 'River basin council' means a planning body for each of the state's 14 river basins
12 as provided by subsection (b) of Code Section 12-5-521.
- 13 (13) 'Safe yield' means the amount of water in a water source available for withdrawal
14 without impairing the long-term utility of the water source, including the biological
15 integrity, chemical integrity, and physical integrity of the source.
- 16 (14) 'Waters of the state' shall be defined as in paragraph (13) of Code Section 12-5-22.

17 12-5-521.

- 18 (a) There is hereby created a Water Planning Division within the Department of Natural
19 Resources.
- 20 (b) There are hereby created as agencies of the state 14 river basin councils to correspond
21 to the Altamaha, Chattahoochee, Coosa, Flint, Ochlockonee, Ocmulgee, Oconee,
22 Ogeechee, St. Marys, Satilla, Savannah, Suwannee, Tallapoosa, and Tennessee river
23 basins. Each river basin council shall be attached to the department for administrative
24 purposes pursuant to Code Section 50-4-3. The division shall delineate such river basins
25 or portions thereof within this state according to geography, and one river basin council
26 shall be headquartered within each basin. A river basin council shall consist of not less
27 than ten nor more than 20 members as determined by a caucus of those members of the
28 General Assembly whose districts lie wholly or partly within such river basin, and all
29 members of each river basin council shall be elected by such caucus for terms concurrent
30 with those of the members of the General Assembly. Such river basin caucuses shall be
31 called and elections certified in the same manner as congressional district caucuses called
32 and elections certified pursuant to Code Section 32-2-20, and any vacancies shall be filled
33 by river basin caucuses in the same manner that vacancies are filled by congressional
34 district caucuses under Code Section 32-2-20. Decisions of any river basin council shall
35 be made upon the affirmative vote of not less than 80 percent of its members. The river
36 basin councils' members shall be a balanced representation of academic institutions, public

1 interest groups, local and state agencies, and private citizens. All river basin council
2 members must be residents of this state, with residencies within their respective river
3 basins. No part of the Metropolitan North Georgia Water Planning District shall be
4 included within the jurisdiction of any river basin council until such time as the duties of
5 the Metropolitan North Georgia Water Planning District as set forth in Article 10 of this
6 chapter shall have been completed, at which time the counties in the district will be
7 integrated into the jurisdictions of their respective river basin councils.

8 (c) There is hereby created a Water Planning Coordination Committee composed of the
9 following state officials who shall serve ex officio as members of the committee:
10 commissioner of natural resources; director of the Environmental Protection Division of
11 the Department of Natural Resources; executive director of the State Soil and Water
12 Conservation Commission; commissioner of community affairs; commissioner of human
13 resources; Attorney General; Commissioner of Agriculture; commissioner of industry,
14 trade, and tourism; commissioner of transportation; and director of the Wildlife Resources
15 Division of the Department of Natural Resources. In addition, the chairpersons of the
16 Senate Natural Resources and the Environment Committee and the House Committee on
17 Natural Resources and Environment shall serve ex officio in an advisory capacity to the
18 committee to provide a legislative perspective in discussions and to build institutional
19 knowledge of the nuances of the comprehensive state water planning process in the General
20 Assembly. The director shall serve as chairperson of the committee.

21 (d) There is hereby created a Water Resources Advisory Group, to be appointed by the
22 director of the Water Planning Division and composed of no more than 20 members with
23 a balanced representation of technical experts from federal and state water related agencies,
24 state academic institutions, private organizations, environmental organizations, and other
25 private citizens. Terms of members of the advisory group shall be concurrent with terms
26 of members of the General Assembly. Any vacancy in the Water Resources Advisory
27 Group shall be filled in the same manner as an original appointment.

28 (e) Members of river basin councils and members of the Water Resources Advisory
29 Group shall receive no compensation for their services as such members.

30 12-5-522.

31 (a) The river basin councils shall create water management plans for their respective river
32 basins, including provisions for the protection of ground water, headwaters, and estuaries.
33 The plans shall address, among other issues, water quantity and use; water quality and
34 waste-water and storm-water management; water conservation and efficiency; and public
35 information and education. They shall also identify procedures and strategies for meeting
36 state water management goals; data and information needs and research necessary to meet

1 those needs; costs of implementation of the plans; and methods for assuring effective
2 implementation of the plans, including benchmarks and annual milestones. The division
3 shall provide minimum standards and criteria for the formulation of these plans through
4 rule or regulation of the Board of Natural Resources. The river basin councils shall submit
5 these plans to the division not less than 180 days prior to the division's promulgation of the
6 comprehensive state water plan.

7 (b) The river basin councils shall provide for meaningful public participation in the
8 process of drafting and finalizing their plans. The draft river basin management plans shall
9 be published for public comment at least 30 days before being finalized. The river basin
10 councils shall hold public hearings regarding the draft plans once they have been published.
11 The final river basin management plans shall be accompanied by substantive responses to
12 comments that have not been incorporated into the final plan.

13 (c) The division shall be responsible for developing comprehensive ground-water
14 management plans for ground water present in discrete aquifers that occupy more than one
15 river basin. The division shall provide for meaningful public participation in the
16 development of the comprehensive ground-water management plans. Any draft
17 comprehensive ground-water management plan shall be submitted to the respective river
18 basin councils for review and comment prior to publication for public comment, and shall
19 be published for public comment at least 30 days before it is finalized. The division shall
20 hold a public hearing regarding the draft plan once it has been published. The final
21 comprehensive ground-water management plans shall be accompanied by substantive
22 responses to comments that have not been incorporated into the final comprehensive
23 ground-water management plans.

24 (d)(1)(A) The division shall incorporate each river basin council's final river basin
25 management plan, the division's final comprehensive ground-water management plans,
26 and any water management plans promulgated by the Metropolitan North Georgia
27 Water Planning District into the comprehensive state water plan, making only such
28 changes as are reasonable and necessary to integrate such components into a
29 coordinated and comprehensive whole and to conform to any applicable requirements
30 of this chapter or other provisions of this Code.

31 (B) The comprehensive state water plan shall be created in accord with and contain the
32 following policy statement: 'Georgia manages water resources in a sustainable manner
33 to support the state's economy, to protect public health and natural systems, and to
34 enhance the quality of life for all citizens.'

35 (C) The comprehensive state water plan shall provide for the sustainable management
36 of Georgia's water resources for the maximum benefit to the public and the natural
37 environment. The comprehensive state water plan shall address, among other issues,

1 water quantity and use; water quality and waste-water and storm-water management;
2 water conservation and efficiency; and public information and education. It shall also
3 identify procedures and strategies for meeting state water management goals; data and
4 information needs and research necessary to meet those needs; costs of implementation
5 of the comprehensive state water plan; and methods for assuring effective
6 implementation of the comprehensive state water plan, including benchmarks and
7 annual milestones.

8 (D) The comprehensive state water plan shall ensure a safe yield in all waters of the
9 state. Further, the comprehensive state water plan shall ensure that conservation
10 measures shall be fully evaluated and implemented by river basin councils and
11 localities to the extent practicable before further water withdrawals are allowed.

12 (2) The first comprehensive state water plan shall be approved as provided in subsection
13 (g) of this Code section within three years after the effective date of this article and shall
14 be reviewed for potential revision at least once every five years following its initial
15 approval. A draft comprehensive state water plan shall be circulated to the Water
16 Planning Coordination Committee and the Water Resources Advisory Group for review
17 and comment not less than 60 days prior to submittal of the plan to the Board of Natural
18 Resources.

19 (e) The Water Planning Coordination Committee shall review and comment on each river
20 basin management plan, the comprehensive ground-water management plans, and the draft
21 comprehensive state water plan. The committee shall report to the Governor not less than
22 30 days prior to the submittal of the comprehensive state water plan to the Board of Natural
23 Resources.

24 (f) The Water Resources Advisory Group shall act as an advisory group to the division and
25 the committee throughout the process of creating a comprehensive state water plan and
26 shall review and comment on the plan.

27 (g) Final approval and implementation of the first comprehensive state water plan, and any
28 subsequent revisions thereof recommended by the division, shall be through the adoption
29 of rules and regulations which incorporate or revise such a plan by the Board of Natural
30 Resources in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
31 Procedure Act.' Such plan and any revision thereof shall not be inconsistent with the
32 provisions of this chapter.

33 (h) Funds necessary for purposes of this Code section shall come from funds appropriated
34 to or otherwise available to the department.

1 12-5-523.
2 The comprehensive state water plan shall be binding on all state and local government
3 agencies once approved, including without limitation the Metropolitan North Georgia
4 Water Planning District for purposes of planning in accordance with subsection (b) of Code
5 Sections 12-5-582 and subsection (a) of Code Section 12-5-584. The Environmental
6 Protection Division of the Department of Natural Resources shall continue to grant water
7 withdrawal permits under Article 2 of this chapter, Part 2 of Article 3 of this chapter,
8 regulations promulgated under such laws, and in accordance with reasonable use. Any
9 local government that does not implement the comprehensive state water plan shall be
10 ineligible for state grants or loans for any water supply and conservation programs that are
11 inconsistent with the comprehensive state water plan."

12 **PART V**

13 **SECTION 5-1.**

14 Nothing in this Act shall prevent a riparian landowner or other landowner from exercising
15 his or her rights to suppress nuisance, pollution, trespass, or to seek any remedy otherwise
16 available under the law. Furthermore, nothing in this Act shall provide any person with any
17 standing to sue that was not in force immediately prior to the effective date of this Act.

18 **SECTION 5-2.**

19 This Act shall become effective upon its approval by the Governor or upon its becoming law
20 without such approval.

21 **SECTION 5-3.**

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