

The Senate Natural Resources and the Environment Committee offered the following substitute to SB 122:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 12-7-6 of the Official Code of Georgia Annotated, relating to  
2 minimum requirements for rules, regulations, ordinances, or resolutions regarding the control  
3 of soil erosion and sedimentations, so as to provide that the Department of Transportation  
4 is exempt from the requirements for buffer variance when it constructs or maintains a public  
5 roadway; to provide an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

7 Code Section 12-7-6 of the Official Code of Georgia Annotated, relating to minimum  
8 requirements for rules, regulations, ordinances, or resolutions regarding the control of soil  
9 erosion and sedimentations, is amended by striking paragraphs (15) and (16) of subsection  
10 (b) in their entirety and inserting in lieu thereof the following:  
11

12 "(15) Except as provided in paragraph (16) of this subsection, there is established a 25  
13 foot buffer along the banks of all state waters, as measured horizontally from the point  
14 where vegetation has been wrested by normal stream flow or wave action, except where  
15 the director determines to allow a variance that is at least as protective of natural  
16 resources and the environment, where otherwise allowed by the director pursuant to Code  
17 Section 12-2-8, ~~or where a drainage structure or a roadway drainage structure must be~~  
18 ~~constructed, or where a public roadway must be constructed or maintained by the~~  
19 Department of Transportation, provided that adequate erosion control measures are  
20 incorporated in the project plans and specifications and are implemented; provided,  
21 however, that buffers of at least 25 feet established pursuant to Part 6 of Article 5 of  
22 Chapter 5 of this title shall remain in force unless a variance is granted by the director as  
23 provided in this paragraph. The following requirements shall apply to any such buffer:

24 (A) No land-disturbing activities shall be conducted within a buffer and a buffer shall  
25 remain in its natural, undisturbed, state of vegetation until all land-disturbing activities  
26 on the construction site are completed. Once the final stabilization of the site is

1 achieved, a buffer may be thinned or trimmed of vegetation as long as a protective  
2 vegetative cover remains to protect water quality and aquatic habitat and a natural  
3 canopy is left in sufficient quantity to keep shade on the stream bed; provided, however,  
4 that any person constructing a single-family residence, when such residence is  
5 constructed by or under contract with the owner for his or her own occupancy, may thin  
6 or trim vegetation in a buffer at any time as long as protective vegetative cover remains  
7 to protect water quality and aquatic habitat and a natural canopy is left in sufficient  
8 quantity to keep shade on the stream bed; and

9 (B) On or before December 31, 2000, the board shall adopt rules which contain  
10 specific criteria for the grant or denial by the director of requests for variances. After  
11 such date, no variance shall be granted by the director which is not consistent with the  
12 criteria contained in such rules; provided, however, that, should the board fail to adopt  
13 rules which contain specific criteria for the grant or denial of requests for variances by  
14 the director on or before December 31, 2000, the authority of the director to issue such  
15 variances shall be suspended until the board adopts such rules; and

16 (16) There is established a 50 foot buffer, as measured horizontally from the point where  
17 vegetation has been wrested by normal stream flow or wave action, along the banks of  
18 any state waters classified as 'trout streams' pursuant to Article 2 of Chapter 5 of this title  
19 except where a roadway drainage structure must be constructed or where a public  
20 roadway is constructed or maintained by the Department of Transportation; provided,  
21 however, that small springs and streams classified as trout streams which discharge an  
22 average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they  
23 may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing  
24 for a general variance promulgated by the board providing for notice to the division or  
25 local issuing authority of the location and extent of the piping and prescribed  
26 methodology for minimizing the impact of such piping and for measuring the volume of  
27 water discharged by the stream. Any such pipe must stop short of the downstream  
28 landowner's property, and the landowner must comply with the buffer requirement for  
29 any adjacent trout streams. The director may grant a variance from such buffer to allow  
30 land-disturbing activity, provided that adequate erosion control measures are incorporated  
31 in the project plans and specifications and are implemented. The following requirements  
32 shall apply to any such buffer:

33 (A) No land-disturbing activities shall be conducted within a buffer and a buffer shall  
34 remain in its natural, undisturbed, state of vegetation until all land-disturbing activities  
35 on the construction site are completed. Once the final stabilization of the site is  
36 achieved, a buffer may be thinned or trimmed of vegetation as long as a protective  
37 vegetative cover remains to protect water quality and aquatic habitat and a natural

1 canopy is left in sufficient quantity to keep shade on the stream bed; provided, however,  
2 that any person constructing a single-family residence, when such residence is  
3 constructed by or under contract with the owner for his or her own occupancy, may thin  
4 or trim vegetation in a buffer at any time as long as protective vegetative cover remains  
5 to protect water quality and aquatic habitat and a natural canopy is left in sufficient  
6 quantity to keep shade on the stream bed; and

7 (B) On or before December 31, 2000, the board shall adopt rules which contain  
8 specific criteria for the grant or denial by the director of requests for variances. After  
9 such date, no variance shall be granted by the director which is not consistent with the  
10 criteria contained in such rules; provided, however, that, should the board fail to adopt  
11 rules which contain specific criteria for the grant or denial of requests for variances by  
12 the director on or before December 31, 2000, the authority of the director to issue such  
13 variances shall be suspended until the board adopts such rules."

14 **SECTION 2.**

15 This Act shall become effective on July 1, 2003.

16 **SECTION 3.**

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