

House Bill 579 (AS PASSED HOUSE AND SENATE)

By: Representative McCall of the 78th

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 programs for measuring certain farm uses of water; to change certain provisions
6 relating to permits for withdrawal, diversion, or impoundment of surface waters and
7 monitoring, recording, and reporting water withdrawn by certain irrigation systems; to
8 change certain provisions relating to permits for farm uses, notice of transfer or modification
9 in use or capacity, nonuse, suspension or modification, priority uses, and effect on existing
10 common or statutory law; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

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

16 "(7.1) To formulate such rules and regulations and to exercise such powers as are
17 necessary to perform its duties under subsection (m.1) of Code Section 12-5-31 and
18 subsection (b.1) of Code Section 12-5-105;"

19 style="text-align:center">**SECTION 2.**

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23 reporting water withdrawn by certain irrigation systems, and inserting in lieu thereof the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

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

- 14 (1) Establish and maintain records;
- 15 (2) Make reports;
- 16 (3) Install, use, and maintain monitoring equipment or methods; and
- 17 (4) Provide such other information as the director may reasonably require.

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

22 (m.1)(1) The State Soil and Water Conservation Commission shall have the duty of
 23 implementing a program of measuring farm uses of water in order to obtain clear and
 24 accurate information on the patterns and amounts of such use, which information is
 25 essential to proper management of water resources by the state and useful to farmers for
 26 improving the efficiency and effectiveness of their use of water, meeting the requirements
 27 of subsection (m) of this Code section, and improving water conservation. Accordingly,
 28 the State Soil and Water Conservation Commission shall on behalf of the state purchase,
 29 install, operate, and maintain water-measuring devices for farm uses that are required by
 30 this Code section to have permits. As used in this paragraph, the term 'operate' shall
 31 include reading the water-measuring device, compiling data, and reporting findings.

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

- 33 (A) May conduct its duties with commission staff and may contract with other persons
 34 to conduct any of its duties;
- 35 (B) May receive and use state appropriations, gifts, grants, or other sources of funding
 36 to carry out its duties;

1 (C) In consultation with the director, shall develop a priority system for installation of
 2 water-measuring devices for farm uses that have permits as of July 1, 2003. The
 3 commission shall, provided that adequate funding is received, install and commence
 4 operation and maintenance of water-measuring devices for all such farm uses by July
 5 1, 2009; provided, however, that the commission shall not install a water-measuring
 6 device on any irrigation system for such a farm use if such irrigation system is equipped
 7 with a meter as of July 1, 2003, and such meter is determined by the commission to be
 8 properly installed and operable, but any subsequent replacement or maintenance of such
 9 an irrigation system that necessitates replacement of such meter shall necessitate
 10 installation of a water-measuring device by the commission;

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

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

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

20 (4) Subject to the provisions of subparagraph (C) of paragraph (2) of this subsection,
 21 after July 1, 2009, no one shall use water for a farm use required to have a permit under
 22 this Code section without having a water-measuring device in operation that has been
 23 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 (6) Any reports of amounts of use for recreational purposes under this part shall be
 27 compiled separately from amounts reported for all other farm uses."

29 SECTION 3.

30 Said chapter is further amended by striking subsection (b) of Code 12-5-105, relating to
 31 permits for farm uses, notice of transfer or modification in use or capacity, nonuse,
 32 suspension or modification, priority uses, and effect on existing common or statutory law,
 33 and inserting in lieu thereof the following:

34 "(b) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the
 35 contrary, permits to withdraw, obtain, or utilize ground waters for farm uses, as that term

1 is defined in paragraph ~~(10)~~ (5.1) of Code Section 12-5-92, whether for new withdrawals
2 or under subsection (a) of this Code section, shall be governed as follows:

3 (1) A permit issued, modified, or amended after July 1, 2003, for farm uses shall have
4 ~~no~~ annual reporting requirements and no term and may be transferred or assigned to
5 subsequent owners of the lands which are the subject of such permit; provided, however,
6 that the division shall receive written notice of any such transfer or assignment, and any
7 modification in the use or capacity conditions contained in the permit or in the lands
8 which are the subject of such permit shall require the permittee to submit an application
9 for review and approval by the director consistent with the requirements of this part;

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

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

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

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

20 (b.1)(1) The State Soil and Water Conservation Commission shall have the duty of
21 implementing a program of measuring farm uses of water in order to obtain clear and
22 accurate information on the patterns and amounts of such use, which information is
23 essential to proper management of water resources by the state and useful to farmers for
24 improving the efficiency and effectiveness of their use of water, meeting the requirements
25 of paragraph (1) of subsection (b) of this Code section, and improving water
26 conservation. Accordingly, the State Soil and Water Conservation Commission shall on
27 behalf of the state purchase, install, operate, and maintain water-measuring devices for
28 farm uses that are required by this Code section to have permits. As used in this
29 paragraph, the term 'operate' shall include reading the water-measuring device, compiling
30 data, and reporting findings.

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

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

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

36 (C) In consultation with the director, shall develop a priority system for installation of
37 water-measuring devices for farm uses that have permits as of July 1, 2003. The

1 commission shall, provided that adequate funding is received, install and commence
2 operation and maintenance of water-measuring devices for all such farm uses by July
3 1, 2009; provided, however, that the commission shall not install a water-measuring
4 device on any irrigation system for such a farm use if such irrigation system is equipped
5 with a meter as of July 1, 2003, and such meter is determined by the commission to be
6 properly installed and operable, but any subsequent replacement or maintenance of such
7 an irrigation system that necessitates replacement of such meter shall necessitate
8 installation of a water-measuring device by the commission;

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

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

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

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

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

24 (6) Any reports of amounts of use for recreational purposes under this part shall be
25 compiled separately from amounts reported for all other farm uses."

26 SECTION 4.

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