

The Senate Natural Resources and the Environment Committee offered the following substitute to HB 237:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to
2 additional duties and powers of the State Soil and Water Conservation Commission, so as
3 to provide for certain powers and duties related to water resources; to amend Chapter 5 of
4 Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to
5 change certain provisions relating to permits for withdrawal, diversion, or impoundment of
6 surface waters and monitoring, recording, and reporting water withdrawn by certain
7 irrigation systems; to change certain provisions relating to definitions relative to
8 ground-water use generally; to change certain provisions relating to permits to withdraw,
9 obtain, or use ground water, water conservation plans, factors to be considered, notice of
10 official acts, administrative hearings, and judicial review; to change certain provisions
11 relating to emergency orders, hearings, and appeals; to change certain provisions relating to
12 permits for farm uses, notice of transfer or modification in use or capacity, nonuse,
13 suspension or modification, priority uses, and effect on existing common or statutory law;
14 to change certain provisions relating to powers and duties of the Board of Natural Resources
15 as to public water systems; to change certain provisions relating to powers and duties of the
16 director as to public water systems generally; to provide for preparation, review, and
17 submission of a proposed comprehensive state-wide water management plan; to provide for
18 rules and regulations; to amend Article 2 of Chapter 2 of Title 46 of the Official Code of
19 Georgia Annotated, relating to jurisdiction of the Public Service Commission, so as to
20 subject the rates of certain water suppliers to regulation by such commission; to amend Title
21 50 of the Official Code of Georgia Annotated, relating to state government, so as to change
22 certain provisions relating to procedural requirements for adoption, amendment, or repeal of
23 rules, emergency rules, limitations on actions to contest rules, and legislative override; to
24 change certain provisions relating to when public disclosure of records is not required and
25 disclosure of exempting authority; to provide legislative findings and declarations; to repeal
26 conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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PART I
SECTION 1-1.

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 (o) of Code Section 12-5-31 and subsection (c) of Code Section 12-5-105;"

PART II
SECTION 2-1.

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

"12-5-31.

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

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

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

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

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

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

1 for farm use which body of water is entirely confined or retained completely upon the
 2 property of a single individual, partnership, or corporation.

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

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

7 (A) Any such withdrawal or combination of several withdrawals on one or more
 8 properties or fields in combination as a system which does not involve more than
 9 100,000 gallons per day on a monthly average;

10 (B) Any such diversion or combination of several diversions on one or more properties
 11 or fields in combination as a system which does not reduce the flow of the surface
 12 waters at the point where the watercourse, prior to diversion, leaves the person's or
 13 persons' property or properties on which the diversion occurred, by more than 100,000
 14 gallons per day on a monthly average;

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

18 (D) Any such impoundment or combination of several impoundments on one or more
 19 properties or fields in combination as a system which does not reduce the flow of the
 20 surface waters immediately downstream of the impoundment by more than 100,000
 21 gallons per day on a monthly average; or

22 (E) Any recycled water for farm use.

23 (2) ~~No permit shall~~ A permit may be required for a reduction of flow of surface waters
 24 during the period of construction of an impoundment, including the initial filling of the
 25 impoundment, ~~or for farm ponds or farm impoundments constructed and managed for the~~
 26 ~~sole purpose of fish, wildlife, recreation, or other farm uses.~~ Prior to the initial
 27 construction and filling of an impoundment, a permit issued pursuant to this Code section
 28 shall be required for the use of such an impoundment for withdrawals greater than
 29 100,000 gallons per day; provided, however, that no permit shall be required for
 30 construction and filling of an impoundment for farm use which body of water is entirely
 31 confined or retained completely upon the property of a single individual, partnership, or
 32 corporation.

33 (3) A permit application for the continued farm use from an impoundment or
 34 combination of several impoundments on one or more properties or fields in combination
 35 as a system of greater than 100,000 gallons per day must be submitted on or before July
 36 1, 2004, by any person who used such an impoundment on or before July 1, 2003, and
 37 desires to continue such use in the future; provided, however, that no permit shall be

1 required for continued use of an impoundment for farm use which body of water is
2 entirely confined or retained completely upon the property of a single individual,
3 partnership, or corporation. Such permit shall be issued by the director not later than July
4 1, 2005.

5 ~~(3)~~(4)(A) Notwithstanding any other provision of this Code section to the contrary, a
6 permit for the withdrawal or diversion of surface waters for farm uses shall be issued
7 by the director to any person when the applicant submits an application which provides
8 reasonable proof that the applicant's farm use of surface waters occurred prior to July
9 1, 1988, and when any such application is submitted prior to July 1, 1991. If submitted
10 prior to July 1, 1991, an application for a permit to be issued based upon farm uses of
11 surface waters occurring prior to July 1, 1988, shall be granted for the withdrawal or
12 diversion of surface waters at a rate of withdrawal or diversion equal to the greater of
13 the operating capacity in place for withdrawal or diversion on July 1, 1988, or, when
14 measured in gallons per day on a monthly average for a calendar year, the greatest
15 withdrawal or diversion capacity during the five-year period immediately preceding
16 July 1, 1988. If submitted after July 1, 1991, or, regardless of when submitted, if it is
17 based upon a withdrawal or diversion of surface waters for farm uses occurring or
18 proposed to occur on or after July 1, 1988, an application shall be subject to evaluation
19 and classification pursuant to subsections (e), (f), and (g) of this Code section, but a
20 permit based upon such evaluation and classification ~~shall~~ may be issued to ensure the
21 applicant's right to a reasonable use of such surface waters. Any permit issued pursuant
22 to this ~~paragraph~~ subparagraph shall be conditioned upon the requirement that the
23 permittee shall provide, on forms prescribed by the director, information relating to a
24 general description of the lands and number of acres subject to irrigation and the
25 permit; a description of the general type of irrigation system used; the source of
26 withdrawal water such as river, stream, or impoundment; and pump information,
27 including rated capacity, pump location, and power information. Permits issued under
28 this ~~paragraph~~ subparagraph shall have no term and may be transferred or assigned to
29 subsequent owners of the lands which are the subject of such permit; provided,
30 however, that the division shall receive written notice of any such transfer or
31 assignment. Any modification in the use or capacity conditions contained in the permit
32 or in the lands which are the subject of such permit shall require the permittee to submit
33 an application for review and approval by the director consistent with this Code section.

34 (B) On or after July 1, 2003, the director may deny an application for a withdrawal
35 permit for farm use or an increase in withdrawal from an existing permit for farm use
36 based on the availability of water in the watershed or aquifer or if the applicant fails to
37 demonstrate a need for the water. A maximum annual volume of water that the

permittee may use shall be specified as a permit limit for any farm use permit issued after July 1, 2003. If use has not commenced within two years after an initial such permit has been issued, then the permit may be revoked in whole or in part. Periodic idling of use under a farm use permit due to silvicultural or agricultural rotations or implementation of Article 9 of this chapter, the 'Flint River Drought Protection Act,' shall not be cause for permit revocation.

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

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

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

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

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

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

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

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

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

(d) All permit applications filed with the director under this Code section shall contain the name and address of the applicant or, in the case of a corporation, the address of its principal business office in this state; the date of filing; the source of the water supply; the quantity of water applied for; the use to be made of the water and any limitation thereon; the place of use; the location of the withdrawal, diversion, or impoundment; for those permits which indicate an increase in water usage, ~~except for permits solely for agricultural~~

1 ~~use~~; a water conservation plan approved by the director and prepared based on guidelines
 2 issued by the director; and such other information as the director may deem necessary;
 3 provided, however, that any required information already provided the director by the
 4 applicant in the context of prior dealings with the division, which information is still
 5 correct, may be incorporated into the application by adequate reference to same. For any
 6 permit solely for farm use, a water conservation plan prepared by the State Soil and Water
 7 Conservation Commission or by the federal Natural Resources Conservation Service shall
 8 be deemed in compliance with the plan requirement of this subsection. The director shall
 9 collect and disseminate such technical information as the director deems appropriate to
 10 assist applicants in the preparation of water conservation plans.

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

- 16 (1) The number of persons using the particular water source and the object, extent, and
 17 necessity of their respective withdrawals, diversions, or impoundments;
- 18 (2) The nature and size of the water source;
- 19 (3) The physical and chemical nature of any impairment of the water source adversely
 20 affecting its availability or fitness for other water uses;
- 21 (4) The probable severity and duration of such impairment under foreseeable conditions;
- 22 (5) The injury to public health, safety, or welfare which would result if such impairment
 23 were not prevented or abated;
- 24 (6) The kinds of businesses or activities to which the various uses are related and the
 25 economic consequences;
- 26 (7) The importance and necessity of the uses, including farm uses, claimed by permit
 27 applicants and the extent of any injury or detriment caused or expected to be caused to
 28 other water uses;
- 29 (8) Diversion from or reduction of flows in other watercourses;
- 30 (9) The prior investments of any person in lands, and plans for the usage of water in
 31 connection with such lands which plans have been submitted to the director within a
 32 reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided,
 33 however, that the granting of such permit shall not have unreasonably adverse effects
 34 upon other water uses in the area, including potential as well as present use; and
- 35 (10) The varying circumstances of each case.

36 (f) In the event two or more competing applicants or users qualify equally under
 37 subsection (e) of this Code section, the director is authorized to grant permits to applicants

1 or modify the existing permits of users for use of specified quantities of surface waters on
2 a prorated or other reasonable basis in those situations where such action is feasible;
3 provided, however, the director shall give preference to an existing use over an initial
4 application.

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

16 (h) Except for applications filed pursuant to ~~paragraph (3) of subsection (a)~~ subparagraph
17 (b)(4)(A) of this Code section, permits may be granted for any period of time not less than
18 ten years, unless the applicant requests a shorter period of time, nor more than 50 years.
19 The director may base the duration of such permits on any reasonable system of
20 classification based upon but not necessarily limited to such factors as source of supply and
21 type of use. In evaluating any application for a permit for the use of water for a period of
22 25 years or more, the director shall evaluate the condition of the water supply to assure that
23 the supply is adequate to meet the multiple needs of the citizens of the state as can
24 reasonably be projected for the term of the permit and ensure that the issuance of such
25 permit is based upon a water development and conservation plan for the applicant or for
26 the region. Such water development and conservation plan for the applicant or for the
27 region shall promote the conservation and reuse of water within the state, guard against a
28 shortage of water within the state, promote the efficient use of the water resource, and be
29 consistent with the public welfare of the state. The board shall promulgate regulations for
30 implementation of this subsection, including provisions for review of such permits
31 periodically or upon a substantial reduction in average annual volume of the water resource
32 which adversely affects water supplies to determine that the permittee continues in
33 compliance with the conditions of the permit and that the plan continues to meet the overall
34 supply requirements for the term of the permit. In the event the director determines that a
35 regional plan is required in connection with any application for a permit for the use of
36 water for a period of 25 years or more, the division or a person or entity designated by the
37 division may develop such a plan. Such regional plan shall include water development,

1 conservation, and sustainable use and shall be based upon detailed scientific analysis of the
2 water source, the projected future condition of the resource, current demand, and estimated
3 future demands on the resource.

4 (i) A permittee may seek modification of any of the terms of an issued permit. The director
5 may approve the proposed modification if the permittee establishes that a change in
6 conditions has resulted in a need by the permittee of more water than is allowed under the
7 existing permit, or that the proposed modification would result in a more efficient
8 utilization of water than is possible under the existing permit, or that a proposed change in
9 conditions would result in a need by the permittee of more water than is allowed under the
10 existing permit. Any such modification shall be consistent with the health and safety of the
11 citizens of this state and with this article. In any administrative review proceeding resulting
12 from an action of the director under this subsection, the burden of proof in establishing that
13 the requisite criteria have been met shall be upon the person seeking such modification.

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

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

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

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

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

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

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

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

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

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

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

19 (1)(1) When there is a moratorium on the issuance of new permits under this Code
20 section for use in any area of the state and an otherwise qualified new user in such area
21 has made application in conjunction with any existing user or users in such area agreeing
22 to provide written consent to revocation of their permits in favor of such new user, in
23 whole or in part, the director may issue a new permit to the applicant for an amount to be
24 determined by the director, based upon his or her professional evaluation of water
25 resource conditions, of up to 75 percent of such forfeited permit amount, except that any
26 such new permit shall be for 100 percent of the forfeited permit amount if all forfeited
27 permit uses and the new use are farm uses, if the total amount of use authorized under all
28 existing permits held by the forfeiting permittees is less than 10 million gallons per day
29 including the amount proposed to be forfeited, or if the purposes of the forfeited use and
30 the new use are the same and the new user has acquired ownership of the real property
31 at which all forfeited use is located; but in any case only after receiving from the existing
32 user or users, on a form prescribed by the director, signed written acknowledgment of
33 such proposed revocation by any and all holders of a recorded security interest in the real
34 property or properties at which such use is currently authorized. The new permittee must
35 show in such application that there will be no reduction in the water available to users
36 downstream. Any permit requirements or other conditions established by this title, the
37 division, or the board shall apply to any new permit issued through participation under

1 this subsection and any revoked or partially revoked permit reissued through participation
2 under this subsection. A new permit issued under this subsection shall be forfeited if use
3 for the stated purpose has not commenced within two years after issuance.

4 (2) Participation under this subsection in the form of providing consent to revocation of
5 all or part of a permit shall not prevent a person from using water in an amount that does
6 not require application to the director, nor shall such consent to revocation prevent a
7 person from applying for a new permit if the moratorium on the issuance of new permits
8 in the area is lifted.

9 (3) Participation under this subsection shall be limited by the following:

10 (A) Any person wishing to receive, revoke, or partially revoke a permit by
11 participation under this subsection must submit an application, as prescribed in this
12 title, and receive approval of the director prior to the issuance of a new permit;

13 (B) Any new or reissued permit created or modified by participation in this subsection
14 shall be subject to regulation by the division under this title;

15 (C) Any consideration paid to any person in contemplation of or as inducement to
16 participate in a transfer under this subsection shall not create any additional rights in or
17 under the permit nor shall such payment exempt the new permittee from any
18 requirements of this title or the board or the permit;

19 (D) Any person receiving a new or reissued permit by participation under this
20 subsection shall be subject to all of the requirements established by this title or by the
21 board pursuant to this title;

22 (E) Prior to the application for the transfer of a permit, said permit must be quantified
23 by an annual maximum volume. The board may create, by rule or regulation, a system
24 for the quantification of permits issued for rated pump capacity; and

25 (F) Any new withdrawal proposed under this subsection shall occur only in the county
26 in which the existing withdrawal occurs or in an immediately adjacent county. If such
27 new withdrawal is subsequently proposed for revocation under this subsection, any
28 subsequent withdrawal under this subsection pursuant to such revocation shall remain
29 limited to the county in which the original revoked withdrawal occurred or in an
30 immediately adjacent county.

31 (4) Participation under this subsection is subject to the division, in consultation with any
32 applicable local water management authority, finding that the proposed transfer is in
33 accordance with any applicable then existing state, regional, or local water management
34 plan or plans.

35 (5) For any calendar year in which a permit transfer has been approved by the director,
36 the division shall report to the General Assembly the amounts and uses of all permit
37 transfers made in that calendar year by February 15 of the following year.

1 (6) In the event any paragraph, subparagraph, item, sentence, clause, phrase, or word of
 2 paragraphs (1) through (5) of this subsection is declared or adjudged to be invalid or
 3 unconstitutional by a court of competent jurisdiction, all of paragraphs (1) through (5)
 4 shall automatically be repealed upon entry of such declaration or adjudication and shall
 5 not remain of full force and effect after such declaration or adjudication. The General
 6 Assembly declares that it would not have enacted the remaining portions of paragraphs
 7 (1) through (5) of this subsection if it had known that such portion of paragraphs (1)
 8 through (5) of this subsection would be declared or adjudged invalid or unconstitutional.

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

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

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

1 use of water to their permitted capacity during the appeal process, but failure to timely
 2 request a hearing in accordance with subsection (c) of Code Section 12-2-2 shall waive
 3 such right;

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

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

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

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

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

25 (1) Establish and maintain records;

26 (2) Make reports;

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

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

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

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

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

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

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

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

11 (C) In consultation with the director, shall develop a priority system for installation of
12 water-measuring devices for farm uses that have permits as of July 1, 2003. The
13 commission shall, provided that adequate funding is received, install and commence
14 operation and maintenance of water-measuring devices for all such farm uses by July
15 1, 2009; provided, however, that the commission shall not install a water-measuring
16 device on any irrigation system for such a farm use if such irrigation system is equipped
17 with a meter as of July 1, 2003, and such meter is determined by the commission to be
18 properly installed and operable, but any subsequent replacement or maintenance of such
19 an irrigation system that necessitates replacement of such meter shall necessitate
20 installation of a water-measuring device by the commission;

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, and for permits issued pursuant to paragraph (3) of subsection (b)
25 of this Code section, no charge shall be made for such costs; and

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

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

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

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

1 (6) Any reports of amounts of use for recreational purposes under this Code section shall
 2 be compiled separately from amounts reported for all other farm uses.

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

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

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

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

12 (D) 'Interbasin transfer' means the withdrawal, diversion, or pumping of surface waters
 13 from a point within any basin of origin and the discharge of all or any part of that water
 14 into a different receiving basin by means of pipes, conduits, ditches, or canals;
 15 provided, however, interbasin transfer shall not include the following:

16 (i) Surface water transferred from one place to another in connection with mining,
 17 conveying, processing, beneficiation, sale, or shipment of any mineral, as such term
 18 is defined in paragraph (5) of Code Section 12-4-72, through whatever mode of
 19 transportation including but not limited to pipes, pipelines, conduits, ditches, or
 20 canals;

21 (ii) Surface water contained in any intermediate or product shipped or transported for
 22 further processing or for sale; and

23 (iii) Transfers of water that are part of a plan for the Metropolitan North Georgia
 24 Water Planning District approved under subsection (a) of Code Section 12-5-584.

25 (E) 'Intrabasin transfer' means the withdrawal, diversion, or pumping of surface waters
 26 from a point within a basin and discharge of all or any part of that water at a different
 27 location in the basin by means of pipes, ditches, conduits, or canals; provided, however,
 28 intrabasin transfer shall not include the following:

29 (i) Surface water transferred from one place to another in connection with mining,
 30 conveying, processing, beneficiation, sale, or shipment of any mineral, as such term
 31 is defined in paragraph (5) of Code Section 12-4-72, through whatever mode of
 32 transportation including but not limited to pipes, pipelines, conduits, ditches, or
 33 canals;

34 (ii) Surface water contained in any intermediate or product shipped or transported for
 35 further processing or for sale; and

36 (iii) Transfers of water that are part of a plan for the Metropolitan North Georgia
 37 Water Planning District approved under subsection (a) of Code Section 12-5-584.

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

3 (2) It is the policy of this state to protect reasonable needs of both the basin of origin and
 4 the receiving basin through the regulation of interbasin transfers. It is also the policy of
 5 this state to protect the basin of origin through regulation of intrabasin transfers.
 6 Accordingly, in ~~In~~ the consideration of applications for permits which if granted on or
 7 after July 1, 2003, would authorize the withdrawal and transfer of surface waters across
 8 ~~natural basins~~ an interbasin or an intrabasin transfer, the director shall be bound by the
 9 following requirements:

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

14 (B) Any intrabasin transfer that crosses more than three adjacent counties or any
 15 interbasin transfer that leaves the county of withdrawal is prohibited, except to satisfy
 16 critical needs or to provide surface water within the lower Savannah and lower
 17 Ogeechee river basins within the 24 coastal counties identified in the division's April
 18 23, 1997, 'Interim Strategy for Managing Salt Water Intrusion in the Upper Floridan
 19 Aquifer of Southeast Georgia';

20 ~~(2)~~(C) Any person who receives in one county an intrabasin transfer of water which
 21 originated in a second county may transfer any and all of such water by means of pipes,
 22 conduits, ditches, or canals into a third county but no further, except to satisfy critical
 23 needs;

24 (D) Any person proposing to receive an interbasin transfer must be implementing a
 25 water conservation plan approved by the director prior to the receipt of any requested
 26 interbasin transfer;

27 (E) The director shall ensure that any interbasin transfer approved shall comply with
 28 the requirements of the Board of Natural Resources for instream flow protection in the
 29 basin of origin; and

30 (F) The director shall provide a press release regarding the proposed issuance of ~~all~~ any
 31 permits authorizing such interbasin transfer of surface waters to newspapers of general
 32 circulation in all areas of the state which would be affected by such issuance. The press
 33 release shall be provided at least ~~seven~~ 30 days before the issuance of ~~these~~ any such
 34 permits. If the director ~~should determine~~ determines that sufficient public interest
 35 warrants a public hearing on the issuance of ~~these~~ any such permits, he or she shall
 36 cause such a hearing to be held somewhere in the area affected prior to the issuance of
 37 ~~these~~ any such permits.

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

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

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

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

30 **PART III**
 31 **SECTION 3-1.**

32 Said chapter is further amended by striking Code Section 12-5-92, relating to definitions
 33 relative to ground-water use generally, and inserting in lieu thereof the following:

34 "12-5-92.

35 As used in this part, the term:

1 (1) 'Aquifer' means a geologic formation, group of such formations, or a part of such a
2 formation that is water-bearing.

3 (2) 'Area of the state' means any municipality or county or portion thereof or other
4 substantial geographical area of the state as may be designated by the division.

5 (3) 'Consumptive use' means any use of water withdrawn from the ground other than a
6 'nonconsumptive use,' as defined in this part.

7 (4) 'Director' means the director, or his or her designee, of the Environmental Protection
8 Division of the Department of Natural Resources.

9 (5) 'Division' means the Environmental Protection Division of the Department of Natural
10 Resources.

11 ~~(5.1)~~(6) 'Farm uses' means irrigation of any land used for general farming, forage,
12 aquaculture, pasture, turf production, orchards, or tree and ~~ornamental~~ horticultural
13 nurseries; provisions of water supply for farm animals, poultry farming, or any other
14 activity conducted in the course of a farming operation. Farm uses shall also include the
15 processing of perishable agricultural products and the irrigation of recreational turf,
16 except in Chatham, Effingham, Bryan, and Glynn counties, where irrigation of
17 recreational turf shall not be considered a farm use.

18 ~~(6)~~(7) 'Ground water' means water of underground streams, channels, artesian basins,
19 reservoirs, lakes, and other water under the surface of the earth, whether public or private,
20 natural or artificial, which is contained within, flows through, or borders upon this state
21 or any portion thereof, including those portions of the Atlantic Ocean over which this
22 state has jurisdiction.

23 ~~(7)~~(8) 'Nonconsumptive use' means the use of water withdrawn from a ground-water
24 system or aquifer in such a manner that it is returned to the ground-water system or
25 aquifer from which it was withdrawn without substantial diminution in quantity or
26 substantial impairment in quality at or near the point from which it was withdrawn,
27 provided that in determining whether a use of ground water is nonconsumptive, the
28 division may take into consideration whether any material injury or detriment to other
29 water users of the area, by reason of reduction of water pressure in the aquifer or system,
30 has not been adequately compensated by the permit applicant who caused or substantially
31 contributed to such injury or detriment.

32 ~~(8)~~(9) 'Person' means any and all persons, including individuals, firms, partnerships,
33 associations, public or private institutions, municipalities or political subdivisions,
34 governmental agencies, or private or public corporations organized under the laws of this
35 state or any other state or country.

36 ~~(9)~~(10) 'Well' means any excavation that is cored, bored, drilled, jetted, dug, or otherwise
37 constructed for the purpose of locating, testing, or withdrawing ground water, or for the

1 purpose of evaluating, testing, developing, draining, or recharging any ground-water
 2 reservoirs or aquifer, or any excavation that may control, divert, or otherwise cause the
 3 movement of water from or into any aquifer, provided that this shall not include a well
 4 constructed by an individual on land which is owned or leased by him or her, appurtenant
 5 to a single-family dwelling, and intended for domestic use, including household purposes,
 6 farm livestock, or gardens."

7 SECTION 3-2.

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

12 "12-5-96.

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

18 (2) Any person applying for a permit or a permit modification under this part which
 19 indicates an increase in water usage, ~~except for permits for solely agricultural usage~~, shall
 20 also submit with such application a water conservation plan approved by the director and
 21 based on guidelines issued by the director. For any permit solely for farm use, a water
 22 conservation plan prepared by the State Soil and Water Conservation Commission or by
 23 the federal Natural Resources Conservation Service shall be deemed in compliance with
 24 such plan requirement. The director shall collect and disseminate such technical
 25 information as the director deems appropriate to assist in the preparation of water
 26 conservation plans.

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

32 (c) In all cases in which sufficient evidence of a nonconsumptive use is not presented by
 33 the applicant, the division shall follow the permit decision procedures established by Board
 34 of Natural Resources regulation, which procedures may include public notice and
 35 comment and the opportunity for a public hearing on a draft permit. The division shall then
 36 notify the applicant of the division's proposed action concerning such permit and shall

1 transmit with such notice a copy of any permit it proposes to issue to the applicant, The
2 division may then issue a permit to the applicant, which permit will become final unless
3 a request for a hearing is made within 30 days from the date of service of such notice. The
4 division shall have the power:

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

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

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

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

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

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

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

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

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

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

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

30 (7) The importance and necessity of the uses, including farm uses, claimed by permit
31 applicants under this Code section, or of the water uses of the area under Code Section
32 12-5-95, and the extent of any injury or detriment caused or expected to be caused to
33 other water uses, including public use;

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

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

37 (10) Any other relevant factors.

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

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

21 (g) Any hearing pursuant to this Code section, other than a hearing held as a part of a
22 public comment period, shall be held in accordance with subsection (c) of Code Section
23 12-2-2 and also, for the purposes of this part, shall be specifically subject to subsection (a)
24 of Code Section 50-13-19.

25 (h)(1) When there is a moratorium on the issuance of new permits under this part for use
26 in any area of the state and an otherwise qualified new user in such area has made
27 application in conjunction with any existing user or users in such area agreeing to provide
28 written consent to revocation of their permits in favor of such new user, in whole or in
29 part, the director may issue a new permit to the applicant for an amount to be determined
30 by the director, based upon his or her professional evaluation of water resource
31 conditions, of up to 75 percent of such forfeited permit amount, except that any such new
32 permit shall be for 100 percent of the forfeited permit amount if all forfeited permit uses
33 and the new use are farm uses, if the total amount of use authorized under all existing
34 permits held by the forfeiting permittees is less than 10 million gallons per day including
35 the amount proposed to be forfeited, or if the purposes of the forfeited use and the new
36 use are the same and the new user has acquired ownership of the real property at which
37 all forfeited use is located; but in any case only after receiving from the existing user or

1 users, on a form prescribed by the director, signed written acknowledgment of such
2 proposed revocation by any and all holders of a recorded security interest in the real
3 property or properties at which such use is currently authorized. The new permittee must
4 show in such application that there will be no reduction in the water available to users in
5 the aquifer. Any permit requirements or other conditions established by this title, the
6 division, or the board shall apply to any new permit issued through participation under
7 this subsection and any revoked or partially revoked permit reissued through participation
8 under this subsection. A new permit issued under this subsection shall be forfeited if use
9 for the stated purpose has not commenced within two years after issuance.

10 (2) Participation under this subsection in the form of providing consent to revocation of
11 all or part of a permit shall not prevent a person from using water in an amount that does
12 not require application to the director, nor shall such consent to revocation prevent a
13 person from applying for a new permit if the moratorium on the issuance of new permits
14 in the area is lifted.

15 (3) Participation under this subsection shall be limited by the following:

16 (A) Any person wishing to receive, revoke, or partially revoke a permit by
17 participation under this subsection must submit an application, as prescribed in this
18 title, and receive approval of the director prior to the issuance of a new permit;

19 (B) Any new or reissued permit created or modified by participation under this
20 subsection shall be subject to regulation by the division under this title;

21 (C) Any consideration paid to any person in contemplation of or as inducement to
22 participate in a transfer under this subsection shall not create any additional rights in or
23 under the permit nor shall such payment exempt the new permittee from any
24 requirements of this title or the board or the permit;

25 (D) Any person receiving a new or reissued permit by participation under this
26 subsection shall be subject to all of the requirements established by this title or by the
27 board pursuant to this title;

28 (E) Prior to the application for the transfer of a permit, said permit must be quantified
29 by an annual maximum volume. The board may create, by rule or regulation, a system
30 for the quantification of permits issued for rated pump capacity; and

31 (F) Any new withdrawal proposed under this subsection shall occur only in the county
32 in which the existing withdrawal occurs or in an immediately adjacent county. If such
33 new withdrawal is subsequently proposed for revocation under this subsection, any
34 subsequent withdrawal under this subsection pursuant to such revocation shall remain
35 limited to the county in which the original revoked withdrawal occurred or in an
36 immediately adjacent county.

1 (4) Participation under this subsection is subject to the division, in consultation with any
 2 applicable local water management authority, finding that the proposed transfer is in
 3 accordance with any applicable then existing state, regional, or local water management
 4 plan or plans.

5 (5) For any calendar year in which a permit transfer has been approved by the director,
 6 the division shall report to the General Assembly the amounts and uses of all permit
 7 transfers made in that calendar year by February 15 of the following year.

8 (6) In the event any paragraph, subparagraph, item, sentence, clause, phrase, or word of
 9 paragraphs (1) through (5) of this subsection is declared or adjudged to be invalid or
 10 unconstitutional by a court of competent jurisdiction, all of paragraphs (1) through (5)
 11 shall automatically be repealed upon entry of such declaration or adjudication and shall
 12 not remain of full force and effect after such declaration or adjudication. The General
 13 Assembly declares that it would not have enacted the remaining portions of paragraphs
 14 (1) through (5) of this subsection if it had known that such portion of paragraphs (1)
 15 through (5) of this subsection would be declared or adjudged invalid or unconstitutional.

16 (i)(1) As used in this subsection, the term:

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

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

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

25 (D) 'Interbasin transfer' means the withdrawal, diversion, or pumping of ground water
 26 from a point within or beneath any basin of origin and the discharge of all or any part
 27 of that water into a different receiving basin by means of pipes, conduits, ditches, or
 28 canals; provided, however, interbasin transfer shall not include the following:

29 (i) Ground water transferred from one place to another in connection with mining,
 30 conveying, processing, beneficiation, sale, or shipment of any mineral, as such term
 31 is defined in paragraph (5) of Code Section 12-4-72, through whatever mode of
 32 transportation including but not limited to pipes, pipelines, conduits, ditches, or
 33 canals;

34 (ii) Ground water contained in any intermediate or product shipped or transported for
 35 further processing or for sale;

36 (iii) Transfers of water that are part of a plan for the Metropolitan North Georgia
 37 Water Planning District approved under subsection (a) of Code Section 12-5-584; and

1 (iv) Transfers of ground water within the lower Savannah and lower Ogeechee river
2 basins within the 24 coastal counties identified in the division's April 23, 1997,
3 'Interim Strategy for Managing Salt Water Intrusion in the Upper Floridan Aquifer of
4 Southeast Georgia.'

5 (E) 'Intrabasin transfer' means the withdrawal, diversion, or pumping of ground water
6 from a point within a basin and discharge of all or any part of that water at a different
7 location in the basin by means of pipes, ditches, conduits, or canals; provided, however,
8 intrabasin transfer shall not include the following:

9 (i) Ground water transferred from one place to another in connection with mining,
10 conveying, processing, beneficiation, sale, or shipment of any mineral, as such term
11 is defined in paragraph (5) of Code Section 12-4-72, through whatever mode of
12 transportation including but not limited to pipes, pipelines, conduits, ditches, or
13 canals;

14 (ii) Ground water contained in any intermediate or product shipped or transported for
15 further processing or for sale; and

16 (iii) Transfers of water that are part of a plan for the Metropolitan North Georgia
17 Water Planning District approved under subsection (a) of Code Section 12-5-584.

18 (F) 'Receiving basin' means the basin into which the discharge of all or any part of
19 transferred water occurs.

20 (2) It is the policy of this state to protect reasonable needs of both the basin of origin and
21 the receiving basin through the regulation of interbasin transfers. It is also the policy of
22 the state to protect the basin of origin through regulation of intrabasin transfers.
23 Accordingly, in the consideration of applications for permits which if granted on or after
24 July 1, 2003, would authorize an interbasin or intrabasin transfer, the director shall be
25 bound by the following requirements:

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

30 (B) Any intrabasin transfer that crosses more than three adjacent counties or any
31 interbasin transfer that leaves the county of withdrawal is prohibited, except to satisfy
32 critical needs;

33 (C) Any person who receives in one county an intrabasin transfer of water which
34 originated in a second county may transfer any or all of such water by means of pipes,
35 conduits, ditches, or canals into a third county but no further, except to satisfy critical
36 needs;

1 (D) Any person proposing to receive an interbasin transfer must be implementing a
 2 water conservation plan approved by the director prior to the receipt of any requested
 3 interbasin transfer;

4 (E) The director shall ensure that any interbasin transfer approved shall comply with
 5 the requirements of the Board of Natural Resources for ground water protection in the
 6 basin of origin; and

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

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

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

35 ~~(2) Persons are 'aggrieved or adversely affected' where the challenged action has caused~~
 36 ~~or will cause them injury in fact and where the injury is to an interest within the zone of~~

1 ~~interests to be protected or regulated by the statutes that the director is empowered to~~
 2 ~~administer and enforce.~~

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

8 SECTION 3-3.

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

11 "12-5-102.

12 (a) ~~After receipt of affidavits or other sworn statements from persons setting forth an~~
 13 ~~emergency situation requiring immediate action to protect the public health or welfare, and~~
 14 ~~after the division finds that such an emergency exists requiring immediate action to protect~~
 15 ~~the public health or welfare, the division may, without notice or hearing, issue an order~~
 16 ~~reciting the existence of such an emergency and requiring that such action be taken as the~~
 17 ~~division deems necessary to meet the emergency. Such order shall, except as to farm uses,~~
 18 ~~be effective immediately, and any person to whom such order is directed shall comply~~
 19 ~~therewith immediately but, on application to the division, shall be afforded a hearing within~~
 20 ~~five days from the day on which the order is issued. On the basis of such hearing, the~~
 21 ~~division shall continue such order in effect, revoke it, or modify it. Whenever it clearly~~
 22 ~~appears to the director from specific facts shown by affidavits of residents of the affected~~
 23 ~~area of this state that an emergency period of water shortage exists within such area so as~~
 24 ~~to place in jeopardy the health or safety of the citizens of such area or to threaten serious~~
 25 ~~harm to the water resources of the area, he or she may by emergency order impose such~~
 26 ~~restrictions on one or more permits previously issued pursuant to Code Section 12-5-96 as~~
 27 ~~may be necessary to protect adequately such citizens or water resources; provided,~~
 28 ~~however, such order shall not be issued until an effort has been made to give written notice~~
 29 ~~of the proposed action by certified mail or statutory overnight delivery to the permittee or~~
 30 ~~permittees to be affected. Such written notice shall allow such permittee or permittees five~~
 31 ~~days from the date of mailing of the notice to appear before the director in opposition to~~
 32 ~~the proposed action. The director may impose such restrictions based upon any reasonable~~
 33 ~~system of classification established by the Board of Natural Resources through rule or~~
 34 ~~regulation. Such system of classification shall be based upon but not necessarily limited to~~
 35 ~~those factors set forth in subsection (d) of Code Section 12-5-96.~~

1 (b) ~~Any appeal from such order shall be in accordance with subsection (c) of Code Section~~
 2 ~~12-2-2, and, for the purposes of this part, shall be specifically subject to subsection (a) of~~
 3 ~~Code Section 50-13-19, except that the initial hearing shall be within five days from the~~
 4 ~~date on which the order was issued. Farm use permittees may continue to make use of~~
 5 ~~water to their permitted capacity during the appeal process, but failure to timely request a~~
 6 ~~hearing shall waive such right. The director shall specify in such order any change in the~~
 7 ~~conditions of the permit, any suspension of the permit, or any other restriction on~~
 8 ~~withdrawing, obtaining, or utilizing ground water for the duration of the emergency water~~
 9 ~~shortage and shall serve same on the person by hand delivery or certified mail or statutory~~
 10 ~~overnight delivery. Except as to farm uses, any such change, suspension, or other~~
 11 ~~restriction shall be effective immediately upon receipt of such order by the permittee, his~~
 12 ~~or her agent for service of process, or any agent or employee of the permittee who receives~~
 13 ~~the notification at the permittee's principal place of business in the state. Any permittee,~~
 14 ~~other than a farm use permittee, to whom such order is directed shall comply therewith~~
 15 ~~immediately. Upon application to a hearing officer appointed by the Board of Natural~~
 16 ~~Resources of this state, a permittee, including a farm use permittee, shall be afforded a~~
 17 ~~hearing within 20 days of receipt of such notice by the hearing examiner in accordance~~
 18 ~~with subsection (c) of Code Section 12-2-2. Farm use permittees may continue to make use~~
 19 ~~of water to their permitted capacity during the appeal process, but failure to timely request~~
 20 ~~a hearing in accordance with subsection (c) of Code Section 12-2-2 shall waive such right.~~
 21 (c) During emergency periods of water shortage, the director shall give first priority to
 22 providing water for human consumption and second priority to farm use.
 23 (d) The importance and necessity of water for industrial purposes are in no way modified
 24 or diminished by this Code section.
 25 (e) Upon expiration of the emergency period of water shortage as determined by the
 26 director, the director shall immediately notify each affected permittee in writing of such
 27 expiration, and the permittees shall thereafter be authorized to operate under the permits
 28 as issued prior to the emergency period of water shortage."

29 SECTION 3-4.

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

34 "12-5-105.

35 (a)(1) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to
 36 the contrary, a permit to withdraw, obtain, or utilize ground waters for farm uses, as that

1 term is defined by paragraph ~~(10)~~ (6) of Code Section 12-5-92, shall be issued by the
 2 director to any person when the applicant submits an application which provides
 3 reasonable proof that the applicant's farm use of ground water occurred prior to July 1,
 4 1988, and when such application is submitted prior to July 1, 1991. If submitted prior to
 5 July 1, 1991, an application for a permit to be issued based upon farm uses of ground
 6 water occurring prior to July 1, 1988, shall be granted for the withdrawal of ground water
 7 at a rate of withdrawal equal to the greater of the operating capacity in place for
 8 withdrawal on July 1, 1988, or, when measured in gallons per day on a monthly average
 9 for a calendar year, the greatest withdrawal capacity during the five-year period
 10 immediately preceding July 1, 1988. If submitted after July 1, 1991, or, regardless of
 11 when submitted, if it is based upon a withdrawal of ground water for farm uses occurring
 12 or proposed to occur on or after July 1, 1988, an application shall be subject to evaluation
 13 and classification pursuant to Code Sections 12-5-96 and 12-5-97, but a permit based
 14 upon such evaluation and classification ~~shall~~ may be issued to ensure the applicant's right
 15 to a reasonable use of such ground water. Any permit issued pursuant to this Code
 16 section shall be further conditioned upon the requirement that the permittee shall provide,
 17 on forms prescribed by the director, information relating to a general description of the
 18 lands and number of acres subject to irrigation and the permit; the name and address of
 19 the permittee; a description of the general type of irrigation system used; well
 20 construction; and pump information, including rated capacity, pump setting depth, and
 21 power information.

22 (2) On or after July 1, 2003, the director may deny an application for a withdrawal
 23 permit for farm use or an increase in withdrawal from an existing permit for farm use
 24 based on the availability of water in the watershed or aquifer or if the applicant fails to
 25 demonstrate a need for the water. A maximum annual volume of water that the permittee
 26 may use shall be specified as a permit limit for farm use permits issued on or after July
 27 1, 2003.

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

32 (1) A permit issued, modified, or amended after July 1, 2003, for farm uses shall have
 33 ~~no~~ annual reporting requirements, a specified maximum annual volume, and no term and
 34 may be transferred or assigned to subsequent owners of the lands which are the subject
 35 of such permit; provided, however, that the division shall receive written notice of any
 36 such transfer or assignment, and any modification in the use or capacity conditions
 37 contained in the permit or in the lands which are the subject of such permit shall require

1 the permittee to submit an application for review and approval by the director consistent
2 with the requirements of this part;

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

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

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

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

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

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

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

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

35 (C) In consultation with the director, shall develop a priority system for installation of
36 water-measuring devices for farm uses that have permits as of July 1, 2003. The
37 commission shall, provided that adequate funding is received, install and commence

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

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

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

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

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

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

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

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

PART IV SECTION 4-1.

Said chapter is further amended in subsection (a) of Code Section 12-5-174, relating to powers and duties of the Board of Natural Resources as to public water systems, by striking the period at the end of paragraph (4) and inserting "; and" in lieu thereof and adding a new paragraph (5) to read as follows:

"(5) Establish by rule or regulation such policies, requirements, or standards as are necessary and appropriate governing the installation and operation of water-measuring devices on individual service connections."

SECTION 4-2.

Said chapter is further amended in subsection (a) of Code Section 12-5-176, relating to powers and duties of the director as to public water systems generally, by striking "and" at the end of paragraph (11), striking the period at the end of paragraph (12) and inserting "; and" in lieu thereof, and adding a new paragraph (13) to read as follows:

"(13) To exercise general supervision over the installation and operation of water-measuring devices on individual service connections."

PART V**SECTION 5-1.**

The General Assembly finds and declares that:

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

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

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

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

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

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

SECTION 5-2.

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

"ARTICLE 7A

12-5-510.

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

12-5-511.

As used in this article, the term:

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

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

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

12-5-512.

The general welfare and public interest require that the water resources of this state be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation in order to conserve such water resources, to protect natural systems, and to provide and maintain conditions which are conducive to the development and use of such water resources. Accordingly, as provided in this article, the division shall propose rules or regulations for establishing a comprehensive state-wide water management plan which plan shall set forth state-wide water policies and which shall guide river basin management plans, regional water planning efforts of the division and the State Soil and Water Conservation Commission, and local water plans.

12-5-513.

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

(b) The following principles shall guide the work of the division in developing the proposed rules and regulations to provide a comprehensive state-wide water management plan:

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

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

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

6 (4) Water management efforts must have a sound scientific foundation and recognize
7 that economic prosperity and environmental quality are interdependent;

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

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

13 (7) Water resources management encourages local and regional innovation,
14 implementation, adaptability, and responsibility for watershed and river basin
15 management;

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

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

22 (c) The proposed rules or regulations to provide a state-wide comprehensive water
23 management plan shall include as a part thereof a state-wide drought management plan to
24 establish procedures for the identification of conditions that indicate the approach and
25 potential onset of drought and for the use of water in a period of drought when such a
26 period is determined to exist based upon criteria specified in the state-wide drought
27 management plan.

28 12-5-514.

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

32 12-5-515.

33 (a) The division shall work in cooperation, coordination, and communication with the
34 coordinating committee created by Code Section 12-5-516 and any other state, local,

1 regional, or federal agency as appropriate to complete the proposed rules or regulations to
2 provide a comprehensive state-wide water management plan.

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

7 12-5-516.

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

20 (b) The committee shall:

21 (1) Ensure coordination, cooperation, and communication among state agencies and their
22 water related efforts in the development of any proposed rules or regulations to provide
23 a comprehensive state-wide water management plan;

24 (2) Review the final draft of the proposed rules or regulations to provide a
25 comprehensive state-wide water management plan upon submission by the director to
26 determine implications of the plan for responsibilities and authority of their respective
27 agencies and needs for implementing legislation; and

28 (3) Recommend such proposed rules and regulations at the regular session of the General
29 Assembly next occurring after such completion for consideration by the General
30 Assembly, along with any proposed amendments to this Code which may be necessary
31 for such purposes.

32 12-5-517.

33 (a) No rules or regulations establishing any comprehensive state-wide water management
34 plan prepared pursuant to this article shall have any force or effect unless approved by the

1 General Assembly by means of the adoption of a joint resolution ratifying such rules or
2 regulations.

3 (b) Subject to review by and recommendation of the coordinating committee in the same
4 manner provided by subsection (b) of Code Section 12-5-516, the division may
5 subsequently propose to amend or repeal any rules or regulations previously ratified by the
6 General Assembly pursuant to subsection (a) of this Code section; but no such proposed
7 amendment or repeal shall become effective unless such proposed amendment or repeal is
8 approved by the General Assembly by means of the adoption of a joint resolution ratifying
9 such amendment or repeal, except as otherwise provided by subsection (c) of this Code
10 section.

11 (c) If at any time after a joint resolution has been adopted as provided in subsection (a) of
12 this Code section and between the adjournment sine die of a regular session of the General
13 Assembly and prior to the convening date of the next regular session of the General
14 Assembly the director finds that an imminent peril to the public health, safety, or welfare,
15 requires adoption, amendment, or repeal of a rule or regulation for purposes of this article
16 and states in writing his or her reasons for that finding, the coordinating committee may
17 proceed to adopt an emergency rule or regulation for purposes of this article. Such rule or
18 regulation shall be effective upon such adoption and for not longer than the duration of the
19 emergency or until the twentieth legislative day of the next regular session of the General
20 Assembly, whichever first occurs."

21 **SECTION 5-2A.**

22 Article 2 of Chapter 2 of Title 46 of the Official Code of Georgia Annotated, relating to
23 jurisdiction of the Public Service Commission, is amended by adding after Code Section
24 46-2-23.1 a new Code section to read as follows:

25 "46-2-23.2.

26 The rates of each water supplier, other than a supplier owned or operated by this state or
27 by a political subdivision of this state or under contract with this state or such a political
28 subdivision for such operation, shall be subject to regulation by the Public Service
29 Commission if such supplier has 3,000 or more taps. In fixing the rates for such supplier,
30 the commission may fix such rates on the ratio of the operating expenses to the operating
31 revenues."

32 **SECTION 5-3.**

33 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
34 in Code Section 50-13-4, relating to procedural requirements for adoption, amendment, or

1 repeal of rules, emergency rules, limitations on actions to contest rules, and legislative
2 override, by adding a new subsection to read as follows:

3 "(i) This Code section shall not apply to rules or regulations establishing a comprehensive
4 state-wide water management plan, which rules or regulations shall be proposed, adopted,
5 amended, or repealed pursuant to Article 7A of Chapter 5 of Title 12."

6 **SECTION 5-4.**

7 Said title is further amended in subsection (a) of Code Section 50-18-72, relating to when
8 public disclosure of records is not required and disclosure of exempting authority, by
9 inserting a new paragraph to read as follows:

10 "(10.1) Records of farm water use by individual farms as determined by water-measuring
11 devices installed pursuant to Code Section 12-5-31 or 12-5-105; provided, however, that
12 compilations of such records for an entire river basin or aquifer that do not reveal farm
13 water use by individual farms shall be subject to disclosure under this article;"

14 **PART VI**

15 **SECTION 6-1.**

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