

House Bill 237 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to enact the "Comprehensive State-wide Water Management Planning Act"; to provide legislative findings and declarations; to change certain provisions relating to river basin management plans; to provide for definitions; to require the development of a state-wide water management plan; to provide for principles on which such plan shall be based; to require all water withdrawal permit decisions to be made in accordance with such plan; to provide for effect of noncompliance with such plan; to provide for a Water Council and for its composition and duties; to provide procedures for plan development, adoption, and revision; to provide for related matters; to amend Code Section 50-13-4 of the Official Code of Georgia Annotated, relating to procedural requirements for adoption, amendment, or repeal of rules, emergency rules, limitations on actions to contest rules, and legislative override, so as to provide an exception; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 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 by the Environmental Protection Division of the Department of Natural Resources;
- (2) 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; and
- (3) Regional water planning efforts of the Environmental Protection Division should be coordinated with and not supplant the existing efforts of all state agencies.

SECTION 2.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by striking Article 8, relating to river basin management plans, and inserting in lieu thereof the following:

"ARTICLE 8

12-5-520.

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

12-5-521.

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.

12-5-522.

(a) The division shall develop and propose a comprehensive state-wide water management plan not inconsistent with this chapter and in accordance with 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 a comprehensive state-wide water management plan:

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

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

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

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

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

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

4 (7) Water resources management encourages local and regional innovation,
5 implementation, adaptability, and responsibility for watershed and river basin
6 management;

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

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

13 (c) The proposed comprehensive state-wide water management plan shall set forth
14 state-wide water policies not inconsistent with this chapter which shall guide river basin
15 and aquifer management plans, regional water planning efforts, and local water plans.

16 (d) The proposed comprehensive state-wide water management plan may include a process
17 for creating draft river basin management plans and draft ground-water management plans
18 and how such plans are finalized and revised, including how the public may participate in
19 the creation and revision of such plans.

20 (e) The division shall make all water withdrawal permitting decisions in accordance with
21 this chapter and the comprehensive state-wide water management plan that has been
22 approved or enacted by the General Assembly as provided by this article. Any political
23 subdivision or local water authority that is not in compliance with the plan shall be
24 ineligible for state grants or loans for water projects, except for those projects designed to
25 bring such political subdivision or local water authority into compliance with the plan.

26 12-5-523.

27 (a) The division shall work in cooperation, coordination, and communication with the
28 Water Council created by Code Section 12-5-524 and any other state, local, regional, or
29 federal agency as appropriate to develop a comprehensive state-wide water management
30 plan.

31 (b) The division shall solicit extensive stakeholder involvement in the development of the
32 proposed plan. Such stakeholders shall include, without limitation, other state agencies,
33 nonprofit advocacy organizations, business organizations, local government entities and
34 associations of local government entities, and regional development centers.

35 (c) The division shall submit a draft initial comprehensive state-wide water management
36 plan to the Water Council for review no later than July 1, 2007.

12-5-524.

(a) There shall be a coordinating committee called the 'Water Council' composed of one member appointed by the Speaker of the House of Representatives who shall not be a member of the General Assembly and who shall serve for a term of four years and until a successor is appointed and qualified; one member appointed by the President Pro Tempore of the Senate who shall not be a member of the General Assembly and who shall serve for a term of four years and until a successor is appointed and qualified; and the following state officials who shall serve ex officio as members of the committee: the director of the division, the commissioner of natural resources, the executive director of the State Soil and Water Conservation Commission, the commissioner of community affairs, the commissioner of human resources, the Commissioner of Agriculture, the director of the Georgia Forestry Commission, and the executive director of the Georgia Environmental Facilities Authority. In addition, the chairperson of the Senate Natural Resources and the Environment Committee, ex officio, and one additional member of that committee to be selected by its chairperson and the chairperson of the House Committee on Natural Resources and Environment, ex officio, and one additional member of that committee to be selected by its chairperson shall each serve in an advisory capacity. Any vacancy among the two appointed members of the Water Council who are not members of the General Assembly other than for expiration of term shall be filled in the same manner as the original appointment for the unexpired term. The director shall serve as chairperson of the Water Council.

(b) The Water Council shall:

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

(2) Provide input to the division concerning the development of a comprehensive state-wide water management plan;

(3) Review, modify if necessary, and approve the final draft of the proposed comprehensive state-wide water management plan; and

(4) Recommend such initial proposed plan for consideration by the General Assembly not later than the first day of the regular session of the General Assembly next occurring after such completion but not later than the first day of the 2008 regular session of the General Assembly.

12-5-525.

(a)(1)(A) No comprehensive state-wide water management plan submitted by the Water Council pursuant to this article shall have any force or effect unless approved by

1 the General Assembly by means of the adoption of a joint resolution ratifying such
2 plan, except as otherwise provided by this subsection. Upon the loss of any such
3 resolution, the Water Council may submit successive alternate plans to the General
4 Assembly not later than the twentieth day of the session for approval during such
5 session.

6 (B) Subject to the same development process as provided by subsections (a) and (b)
7 of Code Section 12-5-523 and review, modification if necessary, and approval by the
8 Water Council in the same manner provided by subsection (b) of Code Section
9 12-5-524, the division may subsequently propose to amend or repeal a plan approved
10 under subparagraph (A) of this paragraph; but no such proposed amendment or repeal
11 shall become effective unless an initial version thereof is submitted to the General
12 Assembly not later than the first day of a session and the amendment or repeal is
13 approved by the General Assembly in the same manner as provided by subparagraph
14 (A) of this paragraph.

15 (2) In lieu of approving a comprehensive state-wide water management plan in
16 accordance with subparagraph (A) of paragraph (1) of this subsection, the General
17 Assembly may enact a statutory comprehensive state-wide water management plan.

18 (3) If:

19 (A) The General Assembly fails to approve a comprehensive state-wide water
20 management plan in accordance with subparagraph (A) of paragraph (1) of this
21 subsection during the session in which such a proposed plan was timely presented by
22 the Water Council to the General Assembly for approval; and

23 (B) A statutory comprehensive state-wide water management plan provided by an Act
24 of the General Assembly that expressly supercedes any and all comprehensive
25 state-wide water management plans submitted by the Water Council to the General
26 Assembly for approval does not become law on or before July 1 next occurring after
27 the session in which such a proposed plan was timely submitted by the Water Council
28 to the General Assembly for approval,

29 then the comprehensive state-wide water management plan submitted latest in time but
30 not later than the twentieth day of the session by the Water Council to the General
31 Assembly shall become of full force and effect without the approval of the General
32 Assembly on July 1 next occurring after the session in which such proposed plan was
33 timely presented to the General Assembly for approval.

34 (b) If at any time after a comprehensive state-wide water management plan has become
35 effective under subsection (a) of this Code section and between the adjournment sine die
36 of a regular session of the General Assembly and prior to the convening date of the next
37 regular session of the General Assembly the director finds that there is an actual or

1 impending emergency or disaster of natural or human origin or a public health emergency
2 within or affecting the state and that strict compliance with any provision or provisions of
3 such plan presents an imminent peril to the public health, safety, or welfare and states in
4 writing his or her reasons for those findings, the Water Council may approve a temporary
5 waiver of such provision or provisions but only to the extent necessary to alleviate the
6 peril. Such waiver shall be effective upon such approval by the Water Council and for not
7 longer than the duration of the emergency or until the twentieth legislative day of the next
8 regular session of the General Assembly, whichever first occurs.

9 (c) After a comprehensive state-wide water management plan becomes effective pursuant
10 to subsection (a) of this Code section, the division shall review such plan in its current form
11 not later than July 1, 2010, and at least every three years thereafter, for purposes of
12 determining whether revision of such plan is necessary or appropriate for
13 recommendation."

14 **SECTION 3.**

15 Code Section 50-13-4 of the Official Code of Georgia Annotated, relating to procedural
16 requirements for adoption, amendment, or repeal of rules, emergency rules, limitations on
17 actions to contest rules, and legislative override, is amended by adding a new subsection to
18 read as follows:

19 "(i) This Code section shall not apply to any comprehensive state-wide water management
20 plan or revision thereof prepared by the Environmental Protection Division of the
21 Department of Natural Resources and proposed, adopted, amended, or repealed pursuant
22 to Article 8 of Chapter 5 of Title 12."

23 **SECTION 4.**

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

26 **SECTION 5.**

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