

Senate Bill 510

By: Senators Pearson of the 51st, Balfour of the 9th, Seabaugh of the 28th, Wiles of the 37th and Rogers of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and
2 natural resources, so as to change certain provisions relating to minimum standards and
3 procedures for protection of river corridors; to change certain provisions regarding minimum
4 standards and procedures regarding river corridors; to provide for limitations with respect to
5 certain stream buffers; to change certain provisions relating to uses to which provisions of
6 certain river protection statutes are inapplicable; to change certain provisions relating to local
7 regulation of land in drainage basins, enforcement where local regulation inadequate, and
8 failure of governing authority to meet requirements; to change certain provisions relating to
9 best management practices regarding land-disturbing activities; to repeal conflicting laws;
10 and for other purposes.

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13

SECTION 1.

14 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
15 resources, is amended by striking paragraph (3) of subsection (c) of Code Section 12-2-8,
16 relating to minimum standards and procedures for protection of river corridors, and inserting
17 in its place a new paragraph (3) to read as follows:

18 "(3) 'River corridor' means all land not regulated under Code Sections 12-5-440 through
19 12-5-457, and Part 4 of Article 4 of Chapter 5 of this title, the 'Coastal Marshlands
20 Protection Act of 1970,' in the areas of a perennial stream or watercourse with an average
21 annual flow of at least 400 cubic feet per second as defined by the United States Geologic
22 Survey and being within ~~100 feet on both sides of the river as measured from the river~~
23 ~~banks at mean high water~~ the buffer limitations specified under Code Section 12-7-6."

1 (C) Such criteria shall provide for encroachments into the buffer area as needed for the
 2 construction of public roads and public utility crossings of river corridors and must
 3 meet all applicable requirements of Chapter 7 of this title, the 'Erosion and
 4 Sedimentation Act of 1975,' and of any applicable local ordinances on soil erosion and
 5 sedimentation control;

6 (2) Local governments shall identify existing river corridors and shall adopt river
 7 corridor protection plans as part of their planning process. Local governments may
 8 exempt from the planning process:

9 (A) Land uses existing prior to the promulgation of a river corridor protection plan
 10 from the criteria of the river corridor protection plan;

11 (B) Mining activities permitted by the Department of Natural Resources pursuant to
 12 Part 3 of Article 2 of Chapter 4 of this title, the 'Georgia Surface Mining Act of 1968,'
 13 from the criteria of the river corridor protection plan; ~~and~~

14 (C) Utilities from the buffer and set-back area criteria of the river corridor protection
 15 plan if such utilities cannot feasibly be located outside of such areas, provided:

16 (i) The utilities shall be located as far from the stream bank as reasonably possible;

17 (ii) The installation and maintenance of the utilities shall be such as to protect the
 18 integrity of the buffer and set-back areas as well as is reasonably possible; and

19 (iii) The utilities shall not impair the drinking quality of the stream water; and

20 (D) Specific forestry and agricultural activities from buffer and set-back criteria in
 21 accordance with the following conditions:

22 (i) The activity shall be consistent with the best management practices established by
 23 the Georgia Forestry Commission or the State Soil and Water Conservation
 24 Commission; and

25 (ii) The activity shall not impair the drinking quality of the stream water as defined
 26 by the federal Clean Water Act of 1977 (P.L. 95-217);

27 (3) River corridors shall be appropriately identified and mapped in the land use plans
 28 developed by local and regional governments. Such land use plans shall address, at a
 29 minimum, the following considerations with regard to river corridors:

30 (A) Whether the impact the land use plan has on an area would adversely affect the
 31 public health, safety, welfare, or the property of others;

32 (B) Whether the area is unique or significant in the conservation and movement of
 33 flora and fauna including threatened, rare, or endangered species;

34 (C) Whether alteration or the effects of alteration to river corridors will adversely
 35 affect the function, including the flow or quality of water, cause erosion or shoaling, or
 36 have an adverse impact on navigation;

1 (D) Whether modification or the effects of modification by a project would adversely
2 affect fishing or recreational use of river corridors;

3 (E) Whether an alteration or the effects of alteration would be temporary in nature;

4 (F) Whether the project contains significant state historical and archeological
5 resources, defined as 'Properties on or Eligible for the National Register of Historic
6 Places'; and

7 (G) Whether alteration of river corridors would have a measurably adverse impact on
8 adjacent sensitive natural areas;

9 (4)(A) Land use plans shall provide the following acceptable uses of river corridors
10 without long-term impairment of functions:

11 (i) Timber production and harvesting;

12 (ii) Wildlife and fisheries management;

13 (iii) Waste-water treatment;

14 (iv) Recreation;

15 (v) Natural water quality treatment or purification;

16 (vi) Agriculture production and management; and

17 (vii) Other uses including those permitted by the Department of Natural Resources
18 or under Section 404 of the Federal Water Pollution Control Act as amended by the
19 federal Clean Water Act of 1977 (P.L. 95-217).

20 (B) The following uses shall not be acceptable:

21 (i) Receiving areas for toxic or hazardous waste or other contaminants;

22 (ii) Hazardous or sanitary waste landfills; and

23 (iii) Other uses unapproved by local governments; and

24 (5) The provisions of this subsection shall apply to each local government which
25 contains within its boundaries any river corridor."

26 SECTION 4.

27 Said title is further amended in Code Section 12-5-451, relating to uses to which provisions
28 of the Metropolitan River Protection Act are inapplicable, by striking the introductory
29 language and paragraphs (1) and (2) and inserting in lieu thereof the following:

30 "This part shall not apply to the following uses:

31 (1) Any land or water use for agriculture or animal husbandry as defined in the
32 ordinances adopted by the governing authority, provided that a buffer of natural
33 vegetation is maintained ~~for a distance of 50 horizontal feet from the bank of the~~
34 watercourse to the extent required under Code Section 12-7-6;

35 (2) Ordinary maintenance and landscaping operations, except ~~for a distance of 50~~
36 horizontal feet from the bank of the watercourse in the stream buffer limitations specified

1 under Code Section 12-7-6 and except for the removal of healthy trees over two inches
2 diameter breast height (DBH) anywhere in the stream corridor;"

3 **SECTION 5.**

4 Said title is further amended in Code Section 12-5-453, relating to local regulation of land
5 in drainage basins, enforcement where local regulation inadequate, and failure of governing
6 authority to meet requirements, by striking subsection (a) and inserting in lieu thereof the
7 following:

8 "(a) ~~On or before January 1, 1984, or March 1, 1999, with respect to land brought within~~
9 ~~the stream corridor on July 1, 1998, each~~ Each governing authority shall adopt ordinances
10 or regulations governing use of all land which is in the drainage basin of any tributary.
11 Such regulations and ordinances shall, at a minimum, include the following:

12 (1) Buffer areas of ~~adequate~~ a width not to exceed those limitations specified under
13 Code Section 12-7-6 as determined by local governing authorities along all flowing
14 streams in the drainage basin of any tributary, in which areas there will be no
15 land-disturbing activity; and

16 (2) Soil erosion and sediment control regulations consistent with Chapter 7 of this title,
17 the 'Erosion and Sedimentation Act of 1975.' Requirements of the plan, other than those
18 requirements consistent with Chapter 7 of this title, shall not apply in the drainage basin
19 of any tributary outside the stream corridor."

20 **SECTION 6.**

21 Said title is further amended in Code Section 12-7-6, relating to best management practices
22 regarding land-disturbing activities, by striking subsection (c) and inserting in its place a new
23 subsection (c) to read as follows:

24 "(c) Nothing contained in this chapter shall ~~prevent~~ authorize any state or local issuing
25 authority ~~from adopting to adopt~~ rules and regulations, ordinances, or resolutions which
26 contain stream buffer requirements that exceed the minimum requirements in subsection
27 (b) of this Code section of 25 foot buffers for waters other than trout streams and 50 foot
28 buffers for trout streams unless such rule, regulation, ordinance, or resolution provides for
29 the purchase of the buffer area which exceeds those specified limits in accordance with
30 Chapter 22 of Title 36 and such property qualifies as conservation land in accordance with
31 Chapter 22 of Title 36."

32 **SECTION 7.**

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