

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

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated,
2 relating to general provisions related to the Department of Natural Resources, so as to change
3 certain provisions relating to minimum standards and procedures for protection of river
4 corridors, streams, and reservoirs as part of local government comprehensive plans; to define
5 certain terms; to provide certain exemptions from stream and water supply reservoir buffer
6 requirements; to provide for grant of variances from stream and water supply reservoir buffer
7 requirements under certain circumstances by the director of the Environmental Protection
8 Division; to provide for alternative methods of protection of small water supply watersheds;
9 to provide effective dates; to repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to
13 general provisions related to the Department of Natural Resources, is amended in subsection
14 (c) of Code Section 12-2-8, relating to minimum standards and procedures for protection of
15 river corridors, streams, and reservoirs as part of local government comprehensive plans, by
16 adding new paragraphs to read as follows:

17 "(1.1) 'Large water supply watershed' means a water supply watershed consisting of not
18 less than 100 square miles of land area."

19 "(4) 'Small water supply watershed' means a water supply watershed consisting of less
20 than 100 square miles of land area.

21 (5) 'Storm-water management ordinance' means an ordinance regulating the collection,
22 conveyance, storage, treatment, and disposal of storm-water runoff in a manner intended
23 to prevent increased flood damage, streambank channel erosion, habitat degradation, and
24 water quality degradation and to enhance and promote the public health, safety, and
25 general welfare.

1 (6) 'Water supply reservoir' means a governmentally owned impoundment of water the
2 primary purpose of which is to provide water to one or more governmentally owned
3 public drinking water systems. Such term does not include any multipurpose reservoir
4 owned by the United States Army Corps of Engineers.

5 (7) 'Water supply watershed' means that portion of a watershed that is upstream of a
6 water supply reservoir or governmentally owned public drinking water intake."

7 SECTION 2.

8 Said article is further amended in Code Section 12-2-8, relating to minimum standards and
9 procedures for protection of river corridors, streams, and reservoirs as part of local
10 government comprehensive plans, by striking subsections (b) and (d) and inserting in lieu
11 thereof the following:

12 "(b) The department is therefore authorized to develop minimum standards and procedures,
13 in accordance with paragraph (2) of subsection (b) of Code Section 50-8-7.1 and in
14 accordance with the procedures provided in Code Section 50-8-7.2 for the promulgation
15 of minimum standards and procedures, for the protection of the natural resources,
16 environment, and vital areas of the state, including, but not limited to, the protection of
17 mountains, the protection of river corridors, the protection of ~~watersheds of streams and~~
18 ~~reservoirs which are to be used for public water supply~~ water supply watersheds, for the
19 protection of the purity of ground water, and for the protection of wetlands, which
20 minimum standards and procedures shall be used by local governments in developing,
21 preparing, and implementing their comprehensive plans as that term is defined in paragraph
22 (3) of subsection (a) of Code Section 50-8-2."

23 "(d)(1) The minimum standards and procedures for watershed protection referred to in
24 subsection (b) of this Code section shall specifically include, but shall not be limited to,
25 buffer areas along streams and water supply reservoirs, land development densities, and
26 land use activities. The department may adopt differing minimum standards and
27 procedures of watershed protection based on ~~the size of the watershed~~ whether a large
28 water supply watershed or small water supply watershed is involved, the size or flow
29 volume of the stream or water supply reservoir, and whether or not the actual use of the
30 ~~municipal~~ water supply is existing or proposed.

31 (2)(A)(i) Nothing in such standards shall prohibit or be construed to prohibit the
32 building of a single-family dwelling, including the usual appurtenances thereto, within
33 that portion of a buffer area, if any, that is in addition to the minimum buffer area
34 required under Chapter 7 of this title, the 'Erosion and Sedimentation Act of 1975,'
35 subject to the following conditions:

36 (I) Such dwelling must be in compliance with all other local zoning regulations;

1 (II) A septic tank or tanks serving such dwelling may be located in said additional
2 buffer area but the drainfield for any such tank or tanks must be outside said area;
3 and

4 (III) Any such dwelling must be located on a tract containing at least two acres of
5 land and there shall be only one such dwelling on each such two-acre or larger tract.

6 (ii) Except as expressly provided otherwise in division (i) of this subparagraph, septic
7 tanks and septic tank drainfields shall be prohibited within such additional buffer area.

8 (iii) Such standards shall provide for encroachments into the additional buffer area
9 as needed for the construction of public roads and public utility crossings of such
10 additional buffer areas, provided that such encroachments meet all applicable
11 requirements of Chapter 7 of this title.

12 (B) Any minimum standards and procedures adopted by the department under
13 subsection (b) of this Code section that provide for buffers along streams or water
14 supply reservoirs that are in addition to those minimum buffers required by Chapter 7
15 of this title shall provide for a variance from such additional buffer requirements. On
16 or before December 31, 2006, the Board of Natural Resources shall adopt rules and
17 regulations that contain specific criteria for the grant or denial by the director of
18 requests for variances. After such date, no variance shall be granted by the director
19 which is not consistent with the criteria contained in such rules and regulations. Such
20 rules and regulations shall provide, at a minimum, that the director shall consider
21 granting a variance in the following circumstances:

22 (i) Where a proposed land disturbing activity within the additional buffer would
23 require the landowner to acquire a permit from the United States Army Corps of
24 Engineers under Section 404 of the federal Water Pollution Control Act Amendment
25 of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a
26 mitigation plan to be implemented as a condition of such a permit;

27 (ii) Where the landowner provides a plan satisfactory to the director that shows that,
28 even with the proposed land disturbing activity within the additional buffer, the
29 completed project will result in maintained or improved water quality downstream of
30 the project; or

31 (iii) Where a project with a proposed land disturbing activity within the additional
32 buffer is located in or upstream and within ten linear miles of a stream segment listed
33 as impaired under Section 303(d) of the federal Water Pollution Control Act
34 Amendment of 1972, 33 U.S.C. Section 1313(d) and the landowner provides a plan
35 satisfactory to the director that shows that the completed project will result in
36 maintained or improved water quality in such listed stream segment and that the

1 project has no adverse impact relative to the pollutants of concern in such stream
2 segment.

3 All projects covered under divisions (i), (ii), and (iii) of this subparagraph shall meet
4 all criteria set forth in rules and regulations for specific variance criteria adopted by the
5 board by December 31, 2006.

6 (C) In lieu of complying with minimum standards and procedures for buffers along
7 streams and water supply reservoirs in small water supply watersheds as adopted by the
8 department under subsection (b) of this Code section that provide for buffers along
9 streams or water supply reservoirs in addition to those minimum buffers required by
10 Chapter 7 of this title, a local government may adopt a storm-water management
11 ordinance applicable to perennial streams in that portion of a small water supply
12 watershed that lies within a seven mile radius upstream of a water supply reservoir or
13 governmentally owned public drinking water intake and which ordinance is approved
14 by the department as protecting water quality in the small water supply watershed to an
15 extent equal to or better than that protection afforded by such minimum standards and
16 procedures for buffers along streams and water supply reservoirs. The department shall
17 develop a model storm-water management ordinance for local governments and shall
18 establish standards and procedures for monitoring water quality for purposes of this
19 subparagraph.

20 (D) This paragraph shall not apply to counties and municipalities within the
21 Metropolitan North Georgia Water Planning District under Article 10 of Chapter 5 of
22 this title."

23 **SECTION 3.**

24 For purposes of promulgating rules and regulations, this Act shall become effective upon its
25 approval by the Governor or upon its becoming law without such approval; for all other
26 purposes, this Act shall become effective on July 1, 2006.

27 **SECTION 4.**

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