

House Bill 1009

By: Representatives Hanner of the 148th and Royal of the 171st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water
2 resources, so as to prohibit certain intrabasin transfers of water; to define certain terms; to
3 change certain provisions relating to permits for withdrawal, diversion, or impoundment of
4 surface waters generally and for farm use; to change certain provisions relating to permits
5 to withdraw, obtaining, or use of ground water; to change certain provisions relating to a
6 policy statement for comprehensive state-wide water management planning, guiding
7 principles, and requirements of plans; to provide an effective date; to repeal conflicting laws;
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
12 is amended by revising subsections (e) and (n) of Code Section 12-5-31, relating to permits
13 for withdrawal, diversion, or impoundment of surface waters generally and for farm use, as
14 follows:

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

- 20 (1) The number of persons using the particular water source and the object, extent, and
21 necessity of their respective withdrawals, diversions, or impoundments;
- 22 (2) The nature and size of the water source;
- 23 (3) The physical and chemical nature of any impairment of the water source adversely
24 affecting its availability or fitness for other water uses;
- 25 (4) The probable severity and duration of such impairment under foreseeable conditions;

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

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

5 (7) The importance and necessity of the uses, including farm uses, claimed by permit
6 applicants and the extent of any injury or detriment caused or expected to be caused to
7 other water uses;

8 (8) Diversion from or reduction of flows in other watercourses in accordance with
9 Article 8 of this chapter or any state-wide water plan provided pursuant thereto;

10 (9) The prior investments of any person in lands, and plans for the usage of water in
11 connection with such lands which plans have been submitted to the director within a
12 reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided,
13 however, that the granting of such permit shall not have unreasonably adverse effects
14 upon other water uses in the area, including potential as well as present use; and

15 (10) The varying circumstances of each case."

16 "(n) In the consideration of applications for permits which if granted would authorize the
17 withdrawal and transfer of surface waters across natural basins, the director shall be bound
18 by any factors related thereto under Article 8 of this chapter or any state-wide water plan
19 provided pursuant thereto and the following requirements:

20 (1) The director shall give due consideration to competing existing uses and applications
21 for permits which would not involve interbasin transfers of surface water and, subject to
22 subsection (e) of this Code section, shall endeavor to allocate a reasonable supply of
23 surface waters to such users and applicants; and

24 (2) The director shall provide a press release regarding the proposed issuance of all
25 permits authorizing such interbasin transfer of surface waters to newspapers of general
26 circulation in all areas of the state which would be affected by such issuance. The press
27 release shall be provided at least seven days before the issuance of these permits. If the
28 director should determine that sufficient public interest warrants a public hearing on the
29 issuance of these permits, he or she shall cause such a hearing to be held somewhere in
30 the area affected prior to the issuance of these permits."

31 SECTION 2.

32 Said chapter is further amended by revising subsection (d) of Code Section 12-5-96, relating
33 to permits to withdraw, obtaining, or use of ground water, as follows:

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

- 1 (1) The number of persons using an aquifer and the object, extent, and necessity of their
 2 respective withdrawals or uses;
- 3 (2) The nature and size of the aquifer;
- 4 (3) The physical and chemical nature of any impairment of the aquifer adversely
 5 affecting its availability or fitness for other water uses, including public use;
- 6 (4) The probable severity and duration of such impairment under foreseeable conditions;
- 7 (5) The injury to public health, safety, or welfare which would result if such impairment
 8 were not prevented or abated;
- 9 (6) The kinds of businesses or activities to which the various uses are related;
- 10 (7) The importance and necessity of the uses, including farm uses, claimed by permit
 11 applicants under this Code section, or of the water uses of the area under Code
 12 Section 12-5-95, and the extent of any injury or detriment caused or expected to be
 13 caused to other water uses, including public use;
- 14 (8) Diversion from or reduction of flows in other watercourses or aquifers in accordance
 15 with Article 8 of this chapter or any state-wide water plan provided pursuant thereto;
- 16 (9) A regional water development conservation and sustainable use plan, where
 17 applicable; and
- 18 (10) Any other relevant factors."

19 SECTION 3.

20 Said chapter is further amended by revising subsection (e) of Code Section 12-5-522, relating
 21 to a policy statement for comprehensive state-wide water management planning, guiding
 22 principles, and requirements of plans, as follows:

23 "(e)(1) As used in this subsection, the term:

24 (A) 'Basin' means the land area that drains into a river.

25 (B) 'Intrabasin transfer' means a withdrawal or diversion of water from a point within
 26 a subbasin within a river basin, followed by the use and discharge of some portion of
 27 that water into a second subbasin within the same river basin.

28 (C) 'River' means the Altamaha, Chattahoochee, Coosa, Flint, Ochlockonee, Ocmulgee,
 29 Oconee, Ogeechee, Satilla, Savannah, St. Marys, Suwannee, Tallapoosa, or Tennessee
 30 river.

31 (2) The division shall make all water withdrawal permitting decisions in accordance with
 32 this chapter and the comprehensive state-wide water management plan that has been
 33 approved or enacted by the General Assembly as provided by this article, including but
 34 not limited to restrictions, if any, on diversion from or reduction of flows in other
 35 watercourses; provided, however, that any water withdrawal permit applied for on or after
 36 the effective date of this subsection shall not be granted if such permit would involve any

1 intrabasin transfer of water through more than four adjacent counties anywhere in this
2 state, including without limitation the county of withdrawal and the receiving county.

3 Any political subdivision or local water authority that is not in compliance with the plan
4 shall be ineligible for state grants or loans for water projects, except for those projects
5 designed to bring such political subdivision or local water authority into compliance with
6 the plan."

7 **SECTION 4.**

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

10 **SECTION 5.**

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