

House Bill 1226

By: Representatives Coan of the 101st, Smith of the 70th, McCall of the 30th, Hanner of the 148th, Rogers of the 26th, and others

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 extensively revise certain provisions relating to water supply; to provide
3 for a Water Supply Division of the Department of Natural Resources; to change certain
4 provisions relating to rules and regulations relative to water conservation plans; to change
5 certain provisions relating to permits for withdrawal, diversion, or impoundment of surface
6 waters generally and for farm use; to change certain provisions relating to permits to
7 withdraw, obtaining, or use of ground water; to change certain provisions relating to a policy
8 statement for comprehensive state-wide water management planning, guiding principles, and
9 requirements of plans; to amend Article 2 of Chapter 7 of Title 48 of the Official Code of
10 Georgia Annotated, relating to income tax imposition, rate, computation, and exemptions,
11 so as to provide for tax credits for certain qualified equipment that reduces business or
12 domestic water usage; to amend Chapter 23 of Title 50 of the Official Code of Georgia
13 Annotated, relating to the Georgia Environmental Facilities Authority and the Division of
14 Energy Resources, so as to change certain provisions relating to definitions; to change certain
15 provisions relating to purpose, powers, and duties of the authority; to change certain
16 provisions relating to grants and loans to local governments and payments; to change certain
17 provisions relating to review of contracts and agreements by the Environmental Protection
18 Division or the Georgia Land Conservation Council; to change certain provisions relating to
19 limitations on issue of bonds; to provide for a Water Resources Division of the authority; to
20 provide effective dates; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **PART I**
23 **SECTION 1-1.**

24 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
25 is amended by revising Article 6, relating to water supply, as follows:

H. B. 1226

"ARTICLE 6

12-5-470.

This article shall be known and may be cited as the 'Georgia Water Supply Act of 2008.'

12-5-471.

As used in this article, the term:

(1) 'Authority' mean the Georgia Environmental Facilities Authority created by Code Section 50-23-3.

~~(1.1)~~ (1.1) 'County' means any county created under the Constitution or laws of this state.

(1.2) 'Division' means the Water Supply Division of the Department of Natural Resources created by this article.

(2) 'Environmental services' means the provision, collectively or individually, of water facilities or management services.

(3) 'Lease' includes a lease or sublease and may, in the discretion of the ~~department~~ division, be in form and substance an estate for years, usufruct, license, concession, or any other right or privilege to use or occupy.

(4) 'Lessee' includes lessee or sublessee, tenant, licensee, concessionaire, or other person contracting for any estate for years, usufruct, license, concession, or other right or privilege referred to in paragraph (3) of this Code section.

(5) 'Local government' or 'local governing authority' means any municipal corporation or county, any local water district, or any state or local authority, board, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of ~~the~~ this state.

(6) 'Management services' means technical, administrative, instructional, or informational services provided to any current or potential recipient in, but not limited to, the areas of service charge structure; accounting, capital improvements budgeting or financing; financial reporting, treasury management, debt structure or administration or related fields of financial management; contract or grant administration; management of water systems; and economic development administration or strategies. Management services may be furnished either directly, ~~on-site~~ on site, or through other written or oral means of communication and may consist of reports, studies, presentations, or other analyses of a written or oral nature.

(7) 'May' means permission and not command.

(8) 'Municipal corporation' or 'municipality' means any city or town in this state.

(9) 'Obligation' means any bond, revenue bond, note, lease, contract, evidence of indebtedness, debt, or other obligation of the state or local governments which are

1 authorized to be issued under the Constitution or other laws of this state, including
2 refunding bonds.

3 (10) 'Project' means and includes the acquisition of real property for water reservoirs; the
4 construction and reconstruction or improvement of water reservoirs; the acquisition of
5 real property surrounding water reservoirs; the acquisition of real property for mitigation
6 of any alteration of environmental resources by the construction of a water reservoir; and
7 all necessary and usual water facilities useful for obtaining one or more sources of water
8 supply, the treatment of water, and the distribution and sale of water to users and
9 consumers, including counties and municipalities for the purpose of resale, inside and
10 outside the territorial boundaries of the users and consumers, and the operation,
11 maintenance, additions, improvements, and extensions of such facilities so as to assure
12 an adequate water utility system deemed by the department to be necessary or convenient
13 for the efficient operation of such type of undertaking, including, but not limited to, the
14 development or expansion of water facilities or systems so as to facilitate transitioning
15 households and businesses served by private wells, septic tanks, and other nonreturning
16 water systems to public water or sewerage systems, thereby promoting water
17 conservation, all for the essential public purpose of providing water facilities and services
18 to meet public health and environmental standards and to aid the development of trade,
19 commerce, industry, agriculture, and employment opportunities.

20 (11) 'Water facilities' means any projects, structures, and other real or personal property
21 acquired, rehabilitated, constructed, or planned for the purposes of supplying,
22 distributing, and treating water and diverting, channeling, or controlling water flow and
23 head, including, but not limited to, surface or ground water, canals, reservoirs, channels,
24 basins, dams, aqueducts, standpipes, penstocks, conduits, pipelines, mains, pumping
25 stations, water distribution systems, compensating reservoirs, intake stations, waterworks
26 or sources of water supply, wells, purification or filtration plants or other treatment plants
27 and works, connections, water meters, mechanical equipment, electric generating
28 equipment, rights of flowage or division, and other plant structures, equipment,
29 conveyances, real or personal property or rights therein and appurtenances, furnishings,
30 accessories, and devices thereto necessary or useful and convenient for the collection,
31 conveyance, distribution, pumping, treatment, storing, or disposing of water.

32 (12) 'Waters of the state' has the meaning provided by Code Section 12-5-22.

33 12-5-471.1.

34 (a) There is created within the Department of Natural Resources a Water Supply Division.
35 The department shall transfer to such division all employees of the department whose
36 duties and responsibilities substantially encompass the purposes of this article or, to the

1 extent that the duties and responsibilities of any such employees are divided between the
2 purposes of this article and other purposes, to provide for the reassignment of such duties
3 and responsibilities and the transfer to the division of personnel equivalents sufficient to
4 discharge the duties and responsibilities of this article so reassigned. It is the intent of the
5 General Assembly that the department minimize the addition of new personnel by
6 transferring existing personnel or equivalents to the division. It is the further intent of the
7 General Assembly that the division minimize the retention of new personnel by utilizing
8 personnel employed by the Water Resources Division of the authority.

9 (b) The division shall have a director who shall be appointed and may be removed by the
10 Board of Natural Resources with the approval of the Governor. The director shall appoint
11 an assistant director of the division. The director and the assistant director shall be
12 qualified professionals, competent in the field of water supply and reservoir construction
13 and management. In the event of a vacancy in the office of the director or in his or her
14 absence or if he or she is disabled, the assistant director shall perform all the duties of the
15 director. The director shall be responsible for administering the provisions of this article.
16 The director shall hire the personnel for the division and shall supervise, direct, account for,
17 organize, plan, and execute the functions vested in the division.

18 (c)(1) The director shall issue all orders provided for in the laws to be enforced by the
19 division.

20 (2)(A) Any person who is aggrieved or adversely affected by any order or action of the
21 director shall, upon petition to the director within 30 days after the issuance of such
22 order or the taking of such action, have a right to a hearing before an administrative law
23 judge of the Office of State Administrative Hearings assigned under Code Section
24 50-13-40 and acting in place of the Board of Natural Resources. The hearing before the
25 administrative law judge shall be conducted in accordance with Chapter 13 of Title 50,
26 the 'Georgia Administrative Procedure Act,' and the rules and regulations adopted by
27 the board pursuant thereto. Any administrative law judge so assigned shall fully meet
28 and qualify as to all applicable conflict of interest requirements provided for by federal
29 law and the rules, regulations, and guidelines promulgated thereunder.

30 (B) The petition shall be transmitted to the administrative law judge not more than
31 seven days after the date of filing. The provisions of subsection (c) of Code Section
32 50-13-41 notwithstanding, the hearing shall be held and the decision of the
33 administrative law judge shall be rendered not later than 90 days after the date of the
34 filing of such petition by such person unless such period is extended for a time certain
35 by order of the administrative law judge upon consent of all parties; in addition, the
36 administrative law judge may extend the 90 day period for good cause shown for a
37 period not to exceed an additional 60 days.

1 (C) The decision of the administrative law judge shall constitute the final decision of
2 the board, and any party to the hearing, including the director, shall have the right of
3 judicial review thereof in accordance with Chapter 13 of Title 50.

4 (3) Persons are 'aggrieved or adversely affected' where the challenged action has caused
5 or will cause them injury in fact and where the injury is to an interest within the zone of
6 interests to be protected or regulated by the statutes that the director is empowered to
7 administer and enforce. In the event the director asserts in response to the petition before
8 the administrative law judge that the petitioner is not aggrieved or adversely affected, the
9 administrative law judge shall take evidence and hear arguments on this issue and
10 thereafter make a ruling on this issue before continuing with the hearing. The burden of
11 going forward with evidence on this issue shall rest with the petitioner.

12 (d) The division shall be authorized to assume by intergovernmental contract the
13 responsibility for procuring all permits, licenses, and permissions from the United States
14 of America or any agency or instrumentality thereof; the State of Georgia, its departments,
15 agencies, or authorities; or any county or municipality of this state necessary or required
16 for the purpose of constructing any projects within this state on behalf of local governments
17 seeking to construct such projects. Such contract may provide for the reimbursement of
18 the division for costs and expenses associated with the procurement of such permits,
19 licenses, and permissions, but such reimbursement shall not be a prerequisite to the
20 assumption by the division of such procurement responsibility, and the division is
21 specifically authorized to delay, mitigate, or waive reimbursement when, in the judgment
22 of the director, the welfare and best interests of the people of this state are served thereby.
23 The terms of such contract shall provide for the assumption by such local government of
24 such permits, licenses, and permissions at such time as appropriate for the construction of
25 such projects.

26 (e) In discharging its duties and responsibilities pursuant to the terms of this article, and
27 specifically in identifying appropriate sites for projects and procuring permits, licenses, and
28 permissions for projects, whether owned by the division or otherwise, the division shall
29 utilize to the maximum extent practicable the procurement of services from private sector
30 persons and entities qualified to perform such work. The division shall, to the extent
31 practicable and pursuant to intergovernmental contract, utilize the personnel and facilities
32 of the authority for the purpose of discharging such duties. The authority shall take all
33 appropriate steps to facilitate such utilization, and the authority shall also utilize to the
34 maximum extent practicable the procurement of services from private sector entities
35 qualified to perform such work. It is the intent of General Assembly that the division and
36 the authority minimize the hiring of officers and employees for the purposes of this article.

1 (f) The division shall be designated as the state agency to cooperate with the Corps of
 2 Engineers of the United States Army and all other federal agencies or instrumentalities in
 3 the planning and execution of projects in this state.

4 12-5-472.

5 (a) ~~The department is authorized to acquire~~ division may acquire, design, construct, equip,
 6 operate, maintain, expand, and improve a ~~'project,' as such term is defined in paragraph~~
 7 ~~(10) of Code Section 12-5-471~~ project, in whole or in part, directly or under contract with
 8 others, including each of the facilities described in ~~said~~ paragraph (10) of Code Section
 9 12-5-471, for the purpose of promoting the use of the projects and the use of the industrial,
 10 recreational, commercial, and natural resources of the State of Georgia for the public good
 11 and general welfare; and, without limitation of the foregoing, the ~~department~~ division is
 12 authorized, with the approval of the State Properties Commission, to acquire land for such
 13 purposes; provided, however, that the ~~department~~ division shall not engage in competition
 14 for customers for its environmental services with any local government offering or
 15 providing similar services.

16 (b) Any project acquired, designed, constructed, equipped, operated, maintained,
 17 expanded, or improved by the ~~department~~ division or which is funded in whole or in part
 18 by the division or the Georgia Environmental Facilities Authority shall conform to and
 19 meet standards and procedures promulgated by the Board of Natural Resources pursuant
 20 to specific statutory authorization and direction for watershed and wetlands protection. No
 21 such project shall include an electrical generation facility unless such facility does not
 22 cause the release of water from such reservoir for the generation of such power.

23 (b.1) The division shall coordinate with the Parks, Recreation and Historic Sites Division
 24 of the department for the purpose of acquiring sufficient land surrounding any reservoir
 25 acquired or constructed by the division to protect such reservoir, to provide for future
 26 expansion of such reservoir, and to provide passive recreational opportunities on and
 27 around such reservoir. No development shall be permitted on any such reservoir or its
 28 surrounding lands so acquired other than public development appropriate for such passive
 29 uses. The acquisition of such lands shall be a cost of project for purposes of this article,
 30 and the division and the Parks, Recreation and Historic Sites Division may utilize any
 31 funds available to them for such purposes. Any such acquired surrounding lands shall be
 32 part of the state park system pursuant to Code Section 12-3-31, and the management of
 33 passive recreational uses of any such reservoir shall be vested in the Parks, Recreation and
 34 Historic Sites Division in consultation with the division. All uses of such reservoirs and
 35 acquired surrounding lands shall be subordinate to the use of such reservoirs for water
 36 supply purposes.

1 (c) As a condition precedent to the acquisition or construction of any project, the
 2 ~~department~~ division shall enter into an agreement with any local government, including any
 3 local board of education, which will have property removed from, or converted to
 4 tax-exempt status in, its ad valorem tax digest or tax base as a result of the acquisition or
 5 construction of the project. Each such agreement shall provide that, in each year following
 6 the year in which the agreement is entered into, the ~~department~~ division shall make
 7 payments in lieu of ad valorem taxes to the affected local government with respect to the
 8 property removed from, or converted to tax-exempt status in, the local government's tax
 9 digest or tax base. The amount of payments to be made in each year shall be determined
 10 by applying the local government's ad valorem tax millage rate for that year to the assessed
 11 value of the property removed from, or placed in tax-exempt status in, the local
 12 government's tax digest or tax base; and, for this purpose, the assessed value of such
 13 property shall be the assessed value as determined for the year prior to the year in which
 14 the property is removed from, or placed in tax-exempt status in, the tax digest or tax base.
 15 Such assessed value and payments made shall be increased or decreased from year to year
 16 thereafter as the value of other property having the same type and use as that of the project
 17 property when removed from the digest shall increase or decrease; provided, however, that
 18 the ~~department~~ division shall have all rights of appeal available as to value pursuant to
 19 Code Section 48-5-311. Payments provided for in this subsection shall be made from funds
 20 derived by the ~~department~~ division and subject to subsection (b) of Code Section 12-5-474
 21 to the extent that such funds are available; and, to the extent that such funds are not
 22 available, payments provided for in this subsection shall be made from any funds
 23 ~~appropriated~~ available to the ~~department~~ division for this purpose, which ~~appropriated~~ sums
 24 shall become a cost of the project or its operations. Deficiencies in payments shall accrue
 25 from year to year until paid together with interest without penalty as provided by law.

26 (d) The division, in cooperation with the Water Resources Division of the authority, shall
 27 take all reasonable steps at the earliest practicable date to inventory and survey feasible
 28 sites for water reservoirs within the State of Georgia. The director and the executive
 29 director of the authority shall present the preliminary results of such inventory and survey
 30 to the Senate Natural Resources and the Environment Committee and the House
 31 Committee on Natural Resources and Environment not later than October 1, 2008, together
 32 with a report describing measures undertaken by the division and the authority to expedite
 33 the accomplishment of the purposes of this article. The director and the executive director
 34 of the authority shall thereafter report quarterly to such committees on progress toward the
 35 accomplishment of such purposes in such format as may be directed by the chairpersons
 36 of such committees. It is the intent of the General Assembly that the division and the
 37 authority take all reasonable and practicable steps to expedite the accomplishment of such

1 purposes and that the division and the authority utilize their reporting responsibilities to
 2 apprise the committees promptly of legal, statutory, or other barriers to expedited
 3 accomplishment of such purposes, together with recommended measures to mitigate or
 4 avoid such barriers.

5 (e) The division shall take all reasonable and practicable steps, in consultation with the
 6 Environmental Protection Division and the authority, to create a wetlands mitigation bank
 7 or banks for the purpose of facilitating the construction of projects. Costs and expenses of
 8 such bank or banks shall constitute costs of projects and shall be allocated to projects when
 9 appropriate.

10 12-5-473.

11 (a) The department division shall have the following powers:

12 (1) To acquire; real and personal property of every kind and character by purchase, gift,
 13 lease, or otherwise and to own, hold, improve, ~~and use and to use,~~ sell, convey, exchange,
 14 transfer, lease, sublease, and dispose of ~~real and personal property of every kind and~~
 15 ~~character~~ the same, or any interest therein, for its services, purposes, duties,
 16 responsibilities, or functions pursuant to this article; and any local government is
 17 ~~authorized to~~ may grant, sell, or otherwise alienate leaseholds, real and personal property,
 18 or any interest therein to the ~~department~~ division. Site selection for a project shall be
 19 made after consideration of input from local governments to be served by the project;

20 (2) To make all contracts and to execute all instruments necessary or convenient to its
 21 services, purposes, duties, responsibilities, or functions pursuant to this article;

22 (3) To accept grants of money or materials or property of any kind from the United
 23 States of America or any agency or instrumentality thereof; the State of Georgia, its
 24 departments, agencies, or authorities; or any county or municipality of this state, upon the
 25 terms and conditions as may be imposed thereon to the extent the terms and conditions
 26 are not inconsistent with the limitations and laws of this state and are otherwise within
 27 the power of the ~~department~~ division;

28 (4) To make and execute contracts, lease agreements, and all other instruments necessary
 29 to exercise the powers of the ~~department~~ division to further the public purpose for which
 30 this article was enacted, such contracts, leases, or instruments to include contracts for
 31 construction, operation, management, or maintenance of projects and facilities owned by
 32 a local government or by the state or any state authority; and any and all local
 33 governments and departments, institutions, authorities, or agencies of the state ~~are~~
 34 ~~authorized to~~ may enter into contracts, leases, agreements, or other instruments with the
 35 ~~department~~ division upon such terms and to transfer real and personal property to the

1 state for the use of the ~~department~~ division for such consideration and for such purposes
2 as they deem advisable;

3 (5) To collect fees and charges in connection with its commitments, management
4 services, and servicing, including, but not limited to, reimbursements of costs of
5 financing, as the ~~department~~ division shall determine to be reasonable;

6 (6) To provide advisory, management, technical, consultative, training, educational, and
7 project assistance services to the state and local governments and to enter into contracts
8 with the state and local governments to provide such services. The state and local
9 governments ~~are authorized to~~ may enter into contracts with the ~~department~~ division for
10 such services and to pay for such services as may be provided them;

11 (7) To lease to local governments any state owned facilities or property which the
12 ~~department~~ division is managing under contract with the state;

13 (8) To contract with state agencies or any local government for the use by the ~~department~~
14 division of any property or facilities or services of the state or any such state agency or
15 local government or for the use by any state agency or local government of any facilities
16 or services of the ~~department~~ division, and such state agencies and local governments ~~are~~
17 ~~authorized to~~ may enter into such contracts;

18 (9) To receive and use the proceeds of any tax levied by a local government to pay all
19 or any part of the cost of any project or for any other purpose for which the ~~department~~
20 division may use its own funds pursuant to this article;

21 (10) To cooperate and act in conjunction with industrial, commercial, medical, scientific,
22 public interest, or educational organizations; with agencies of the federal government and
23 this state and local governments; with other states and their political subdivisions; and
24 with joint agencies thereof, and such state agencies, local governments, and joint agencies
25 ~~are authorized and empowered to~~ may cooperate and act in conjunction; and to enter into
26 contracts or agreements with the ~~department~~ division and local governments to achieve
27 or further the policies of the state declared in this article; and

28 (11) To do all things necessary or convenient to carry out the powers conferred by this
29 ~~title~~ article.

30 (b)(1) The exercise of any powers conferred by this article shall be subject to applicable
31 law governing eminent domain and the allocation and distribution of the waters of the
32 state.

33 (2) Nothing in this article shall alter or abrogate any provisions of this chapter or any
34 rules, regulations, or state-wide or regional water plans pursuant thereto regarding
35 interbasin or intrabasin transfer of waters.

1 12-5-474.

2 (a) ~~The department is authorized to~~ division may fix rentals, fees, prices, and other charges
3 which any user, concessionaire, franchisee, or vendor shall pay to the ~~department~~ division
4 for the use of a project or part thereof or combination thereof, and for the goods and
5 services provided by the ~~department~~ division in conjunction with such use, as the
6 ~~department~~ division may deem necessary or appropriate to provide in connection with such
7 use, and to charge and collect the same. Such rentals, fees, prices, and other charges shall
8 be so fixed and adjusted in respect to the aggregate thereof from a project or any part
9 thereof so as to be reasonably expected to provide a fund sufficient with other revenues of
10 such project and funds available to the ~~department~~ division, if any, to pay the cost of
11 maintaining, repairing, and operating a project, including the reserves for extraordinary
12 repairs and insurance, unless such cost shall be otherwise provided for, which costs shall
13 be deemed to include the expenses incurred by the ~~department~~ division on account of a
14 project for water, light, sewer, and other services furnished by other facilities at such
15 project. Such fees shall be fixed after consideration of input from local governments
16 served by the project to which the fees pertain.

17 (b) ~~Notwithstanding any other provision of law, the department is authorized to retain all~~
18 ~~miscellaneous~~ All those funds generated by the operation of the projects ~~for use in the~~
19 ~~operation and maintenance of those sites and facilities. Any such funds not expended for~~
20 ~~this purpose in the fiscal year in which they are generated and paid to the division~~ shall be
21 deposited in the state treasury; ~~provided that nothing in this Code section shall be construed~~
22 ~~so as to allow the department to retain any funds required by the Constitution of Georgia~~
23 ~~to be paid into the state treasury; provided, further, that the department.~~ The division shall
24 comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,'
25 ~~except Code Section 45-12-92, prior to expending any such miscellaneous funds.~~ 'Budget
26 Act.'

27 (c) The ~~department~~ division may establish the terms and conditions upon which any lessee,
28 sublessee, licensee, user, franchisee, or vendor shall be authorized to use a project as the
29 ~~department~~ division may determine necessary or appropriate; ~~and the department shall~~
30 ~~require a water conservation plan approved pursuant to rules and regulations prescribed by~~
31 ~~the Board of Natural Resources, subject to the limitations provided for by this article.~~
32 Projects shall comply with Article 8 of this chapter and any rules, regulations, or state-wide
33 or regional water plans pursuant thereto.

1 12-5-475.

2 (a) It shall be the duty of the Board of Natural Resources to prescribe rules and regulations
3 governing the selection of sites for projects. Such rules and regulations shall include, but
4 shall not be limited to, provisions for:

5 (1) The ~~department~~ division to notify in writing a county or municipality when a
6 preliminary determination has been made for the location of a project within any portion
7 of the territorial boundaries of ~~the~~ such county or municipality;

8 (2) Review and comment by the governing authority of a county or municipality
9 receiving a notice provided for in paragraph (1) of this subsection before the ~~department~~
10 division makes a final determination of the project site; and

11 (3) At least one public hearing within the territorial boundaries of a county or
12 municipality receiving a notice provided for in paragraph (1) of this subsection before the
13 ~~department~~ division makes a final determination of the project site.

14 (b) It shall be the duty of the Board of Natural Resources to prescribe rules and regulations
15 for the operation of and governing the use of each project constructed under the provisions
16 of this article. Such rules shall be prescribed after consideration of input from local
17 governments served or to be served by the project to which the rules pertain. The initial
18 plan for the activities for each project, other than for water supply, shall be approved by the
19 Project Site Control Advisory Council. Any subsequent change in the initial plan shall be
20 subject to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure
21 Act.'

22 12-5-476.

23 (a) The ~~department is authorized to~~ division may contract with any local government to
24 exercise on behalf of ~~the~~ such local government such responsibility in connection with the
25 planning, design, acquisition, construction, operation, management, and maintenance of
26 a project of such local government, as is now or may be hereafter vested in the local
27 government, and to provide to the local government goods or services of the ~~department~~
28 division in connection with the planning, design, acquisition, construction, operation,
29 management, and maintenance of any project of the local government, all as the parties to
30 the contract may determine appropriate. Any such local government ~~is~~ shall be authorized
31 by such contract to delegate to the ~~department~~ division all or such goods or services of the
32 ~~department~~ division in connection with the planning, design, acquisition, construction,
33 operation, management, and maintenance of a project as the parties may by contract
34 determine appropriate.

35 (b) Except as otherwise provided in ~~subsection (c) of Code Section 12-5-472~~ this article,
36 any such contract shall provide that the local government shall reimburse the ~~department~~

1 division for all of the costs, liabilities, and expenses of the ~~department~~ division incurred by
2 the ~~department~~ division in exercising such powers or providing such goods or services; and
3 the ~~department~~ division shall not directly or indirectly be liable for any liability, cost, or
4 expense incurred by such local government in the acquisition, construction, operation,
5 management, or maintenance of a project.

6 (c) If, in order to accomplish the objectives of this article, it is necessary, in the judgment
7 of the director, to construct a project that is larger than one which a local government
8 proposes to construct, the division and the authority may participate in planning, designing,
9 constructing, operating, and maintaining such project and, in so participating, shall finance
10 those costs of the project allocated to the state and such other and further costs as may be
11 agreed upon between the parties, so that the project shall accomplish the maximum water
12 development objectives at a minimum total expenditure.

13 (d) The division and the authority shall coordinate with local governments for the purpose
14 of producing appropriate and necessary needs analyses for projects. In the event that the
15 director, with the approval of the Board of Natural Resources, determines that construction
16 of a project is in the best interests of the people of this state but any affected county or
17 municipality is unable or unwilling to engage in an appropriate needs analysis, the division
18 may conduct such analysis for and on behalf of such county or municipality, and such
19 analysis shall be the needs analysis of such county or municipality with respect to such
20 project for all purposes.

21 12-5-476.1.

22 (a) The division and the authority may enter into agreements with local governments,
23 setting fees to be paid to the division or the authority for the purpose of enabling the
24 division or the authority to expedite or enhance the regulatory process and to provide
25 services voluntarily requested under the agreement with respect to projects. Pursuant to
26 such an agreement, the division or the authority may hire additional temporary staff
27 members, contract for services, or provide additional services that are within the powers
28 of the division and the authority to provide. Such service costs shall constitute a cost of
29 project for purposes of this article and Chapter 23 of Title 50. As part of an agreement
30 entered into under this subsection, the division may waive all or part of a fee imposed for
31 a service. The division shall not require that a local government pay more for a service
32 under an agreement entered into under this subsection than the cost to the division in
33 providing such service to such local government.

34 (b) The division and the authority may enter into agreements with agencies or
35 instrumentalities of the federal government, setting fees to be paid by the division or the
36 authority for the purpose of enabling the division or the authority to expedite or enhance

1 the federal regulatory process and to provide services requested under the agreement with
 2 respect to projects. Pursuant to such agreement, the division may fund the cost of hiring
 3 additional temporary staff members, contracts for services, or the provision of additional
 4 services for the purpose of discharging its duties and responsibilities under this article.
 5 Such fees shall constitute a cost of project for purposes of this article and Chapter 23 of
 6 Title 50.

7 12-5-476.2.

8 (a) Costs of projects and other expenses incurred by the division for purposes of this article
 9 may be paid from funds appropriated or otherwise made available to the division for such
 10 purposes.

11 (b) Costs of projects and other expenses incurred by the Water Resources Division of the
 12 authority for purposes of this article may be financed or paid by the authority as provided
 13 by Article 1 of Chapter 23 of Title 50.

14 12-5-477.

15 The foregoing provisions of this article shall be deemed to provide an additional and
 16 alternative method for the doing of things authorized by this article and shall be regarded
 17 as supplemental and additional to powers conferred by the Constitution and laws of the
 18 State of Georgia and shall not be regarded as in derogation of any powers now existing.

19 12-5-478.

20 This article, being for the welfare of ~~the~~ this state and its inhabitants, shall be liberally
 21 construed to effect the purposes hereof.

22 12-5-479.

23 (a) In the exercise of its powers under this article, the ~~department~~ division may contract
 24 with any public entity which shall include the state or any institution, department, or other
 25 agency thereof or any county, municipality, school district, or other political subdivision
 26 of the state or with any other public agency, public corporation, or public authority, for
 27 joint services, for the provision of services, or for the joint or separate use of facilities or
 28 equipment with respect to such activities, services, or facilities which the contracting
 29 parties are authorized by law to undertake or provide.

30 (b) Pursuant to any such contract, in connection with any facility authorized under this
 31 article, the ~~department~~ division may undertake such facility or provide such services or
 32 facilities of the ~~department~~ division, in whole or in part, to or for the benefit of the public
 33 entity contracting with the ~~department~~ division with respect to those activities, services, or

1 facilities which the contracting public entity is authorized by the Constitution and law to
2 provide, including, but not limited to, those set forth in Article IX, Section III, Paragraph I
3 of the Constitution, and any such contracting public entity ~~is authorized to~~ may undertake
4 to pay the ~~department~~ division for such activities, services, or facilities such amounts and
5 upon such terms as the parties may determine.

6 (c) The state and each institution, department, or other agency thereof or each county,
7 municipality, school district, or other political subdivision of this state and each public
8 agency, public corporation, or public authority ~~is authorized to~~ may contract with the
9 ~~department~~ division in connection with any activity, service, or facility which such public
10 entity is otherwise authorized to provide to obtain the performance of such activity or
11 provision of such services or facilities through the ~~department~~ division.

12 (d) In connection with its operations, the ~~department~~ division may similarly obtain from,
13 and each public entity may provide, such activities, services, or facilities which the
14 ~~department~~ division is authorized to provide.

15 (e) The ~~department~~ division shall establish prior to the commencement of each project a
16 Project Water Users Advisory Council and a Project Site Control Advisory Council. The
17 membership of the Project Water Users Advisory Council shall include the chief executive
18 officers, or their designees, of each local government purchasing water from the project.
19 The membership of the Project Site Control Advisory Council shall include the chief
20 executive officers, or their designees, of each local government within which any part of
21 the project is located. ~~The commissioner, or his designee~~ director, or his or her designee,
22 shall serve as an ex officio member of each advisory council. Each advisory council
23 formed shall meet from time to time as provided by rule and regulation of the Board of
24 Natural Resources and shall elect its own officers and establish such bylaws as its
25 membership may deem appropriate for the conduct of its business. Each Project Water
26 Users Advisory Council shall consult with and advise the ~~department~~ division concerning
27 the operation and management of the project for which it was formed. The operation and
28 management of a project shall be subject to the review of the Project Site Control Advisory
29 Council formed for such project.

30 (f) A local government by resolution of its governing body may enter into a user
31 agreement for the provision of environmental services utilizing facilities owned by the state
32 upon such terms and conditions as the ~~department~~ division shall determine to be
33 reasonable, including, but not limited to, the reimbursement of all costs of construction and
34 financing and claims arising therefrom.

35 (g) No user agreement shall be deemed to be a contract subject to any law requiring that
36 contracts shall be let only after receipt of competitive bids.

1 (h) Any user agreement directly between the state or ~~department~~ division and a local
2 government may contain provisions requiring the local government:

3 (1) To establish and collect rents, rates, fees, and charges so as to produce revenues
4 sufficient to pay all or a specified portion of:

5 (A) The costs of operation, maintenance, renewal, and repairs of the water facility; and

6 (B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the
7 purposes of such water facility and to provide for the payment of all amounts as they
8 shall become due and payable under the terms of such agreement, including amounts
9 for the creation and maintenance of any required reserves;

10 (2) To create and maintain reasonable reserves or other special funds;

11 (3) To create and maintain a special fund or funds as additional security for the punctual
12 payment of any rentals due under such user agreement and for the deposit therein of such
13 revenues as shall be sufficient to pay all user fees and any other amounts becoming due
14 under such user agreements as the same shall become due and payable; or

15 (4) To perform such other acts and take such other action as may be deemed necessary
16 and desirable by the ~~department~~ division to secure the complete and punctual
17 performance by such local government of such lease agreements and to provide for the
18 remedies of the ~~department~~ division in the event of a default by such local government
19 in such payment.

20 12-5-480.

21 The ~~department~~ division shall be authorized to utilize the financial advisory and
22 construction related services of the Georgia State Financing and Investment Commission
23 with respect to the acquisition, design, planning, and construction of any of the projects.
24 ~~Chapter 22 of Title 50~~ Code Section 50-22-9 shall be applicable to the selection of persons
25 to provide professional services for any project or any portion thereof authorized by this
26 article until such time as the director, with the approval of the Board of Natural Resources,
27 certifies that this state and its local governments have constructed or otherwise acquired
28 sufficient reservoir capacity to meet current and reasonably projected future needs, taking
29 into account projected population growth and historical and anticipated cycles or incidents
30 of drought, whereupon the whole of such chapter shall be applicable.

31 12-5-481.

32 It is found, determined, and declared that the carrying out of the purposes of the ~~department~~
33 division as defined in this article is in all respects for the benefit of the people of this state
34 and that the purposes are public purposes; that the ~~department~~ division will be performing
35 an essential governmental function in the exercise of the powers conferred upon it by this

1 article; and that the activities authorized in this article will develop and promote trade,
2 commerce, industry, and employment opportunities to the public good and the general
3 welfare and promote the general welfare of the state.

4 12-5-482.

5 (a) In the event of a failure of any local government to collect and remit in full all amounts
6 due to the ~~department~~ division and all amounts due to others, which involve the credit or
7 guarantee of the state, it shall be the duty of the ~~department~~ division to notify the director
8 of the Office of Treasury and Fiscal Services who shall withhold all funds of the state and
9 all funds administered by the state, its agencies, boards, and instrumentalities allotted to
10 such local government until such local government has collected and remitted in full all
11 sums due and cured or remedied all defaults, unless such amounts have been waived by the
12 division pursuant to this article.

13 (b) Nothing contained in this Code section shall mandate the withholding of funds
14 allocated to a local government which would violate contracts to which the state is a party,
15 the requirements of federal law imposed on the state, or judgments of any court binding the
16 state.

17 12-5-483.

18 Any waiver by the division of any costs or fees owed by any local government to the
19 division under this article shall constitute a grant in the amount of such waiver to such local
20 government pursuant to Article VII, Section III, Paragraph III of the Constitution."

21 SECTION 1-2.

22 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
23 income tax imposition, rate, computation, and exemptions, is amended by adding a new Code
24 section to read as follows:

25 "48-7-40.27.

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

27 (1) 'Machinery and equipment' means all tangible personal property used directly in
28 reducing business or domestic water usage.

29 (2) 'Qualified equipment' means all machinery and equipment certified pursuant to rules
30 and regulations promulgated by the director of the Water Supply Division of the
31 Department of Natural Resources as effective in reducing business or domestic water
32 usage, including, without limitation, recirculating or reuse devices designed to supplant
33 or replace septic tanks, demand water heaters designed to reduce water wastage, and low
34 flow water appliances and toilets. The director of the Water Supply Division of the

1 Department of Natural Resources may take all reasonable and necessary steps to identify
2 qualified equipment and to bring such equipment to the attention of businesses in this
3 state qualified to install such equipment.

4 (b) Any taxpayer who is the ultimate purchaser of qualified equipment for installation as
5 part of new construction or for retrofit in this state shall be allowed a credit against the tax
6 imposed under this article in the taxable year in which such qualified equipment has been
7 placed in service. Such credit shall have a maximum carry forward of ten years. The
8 amount of the credit allowed under this Code section shall be a percentage of the cost of
9 the qualified equipment to be fixed for each category of such equipment by regulation
10 promulgated by the Board of Natural Resources in consultation with the department, not
11 to exceed 25 percent of the cost thereof or \$2,000.00, whichever is less. The amount of the
12 credit which may be used in any tax year shall not exceed 25 percent of the original amount
13 of such credit.

14 (c) The credit granted under subsection (b) of this Code section shall be subject to the
15 following conditions and limitations:

16 (1) Such credit shall be transferable by the taxpayer to a taxpayer that is a homebuilder,
17 home remodeler, or manufacturer, seller, or installer of qualified equipment in this state,
18 pursuant to rules and regulations promulgated by the department and designed to simplify
19 and encourage such transfers. Transfer of any credit for less than the full value thereof,
20 except for a reasonable allowance for administrative costs of the transferee, shall be
21 prohibited. Where the amount of such transferred credit or credits exceeds the
22 transferee's liability for taxes imposed under this article in a taxable year, the excess may
23 be taken as a credit against such transferee's quarterly or monthly payment under Code
24 Section 48-7-103. Each employee whose employer receives credit against such
25 transferee's quarterly or monthly payment under Code Section 48-7-103 shall receive
26 credit against his or her income tax liability under Code Section 48-7-20 for the
27 corresponding taxable year for the full amount which would be credited against such
28 liability prior to the application of the credit provided for in this subsection. Credits
29 against quarterly or monthly payments under Code Section 48-7-103 and credits against
30 liability under Code Section 48-7-20 established by this subsection shall not constitute
31 income to the transferee; and

32 (2) The utilization of the credit granted in this Code section shall have no effect on the
33 taxpayer's ability to claim depreciation for tax purposes on assets acquired by the
34 taxpayer, nor shall the credit have any effect on the taxpayer's basis in such assets for the
35 purpose of depreciation.

36 (d) The state revenue commissioner may enter into agreements with the Georgia
37 Environmental Facilities Authority under which said authority may utilize the Georgia

1 Reservoir Fund created by Code Section 50-23-28 for the payment of all or any part of the
 2 tax credits claimed under this Code section, and moneys within such fund may be disbursed
 3 by the authority to the department pursuant to any such agreement for such purpose. Any
 4 such agreement shall provide that the department shall pay, for deposit into such fund, an
 5 amount sufficient to offset such payments from such fund, without interest, from funds
 6 available to the department under such terms and conditions as may be agreed to between
 7 the state revenue commissioner and the Georgia Environmental Facilities Authority but,
 8 in any event, not later than the fifth fiscal year following the fiscal year in which such
 9 funds were paid or disbursed. Any such agreement shall include provisions requiring the
 10 payment of such offsetting funds, or any portion thereof, upon demand by the Georgia
 11 Environmental Facilities Authority, where immediate availability of such funds is
 12 necessary for the completion of a project as defined by Code Section 12-5-471. No such
 13 agreement, and no portion of any payment under such agreement, shall be pledged or
 14 assigned as security for the repayment of obligations of the Georgia Environmental
 15 Facilities Authority."

16 SECTION 1-3.

17 Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia
 18 Environmental Facilities Authority and the Division of Energy Resources, is amended by
 19 revising Code Section 50-23-4, relating to definitions, as follows:

20 "50-23-4.

21 As used in this chapter, the term:

22 (1) 'Authority' means the Georgia Environmental Facilities Authority.

23 (2) 'Bond' includes revenue bond, bond, note, or other obligation.

24 (3) 'Cost of project' or 'cost of any project' means:

25 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,
 26 installation, modification, renovation, extension, or rehabilitation incurred in
 27 connection with any project or any part of any project;

28 (B) All costs of real property, fixtures, or personal property used in or in connection
 29 with or necessary for any project or for any facilities related thereto, including, but not
 30 limited to, the cost of all land, interests in land, estates for years, easements, rights,
 31 improvements, water rights, and connections for utility services; the cost of fees,
 32 franchises, permits, approvals, licenses, and certificates; the cost of securing any such
 33 franchises, permits, approvals, licenses, or certificates; the cost of preparation of any
 34 application therefor; and the cost of all fixtures, machinery, equipment, furniture, and
 35 other property used in or in connection with or necessary for any project;

1 (C) All financing charges, bond insurance, and loan or loan guarantee fees and all
 2 interest on revenue bonds, notes, or other obligations of the authority which accrue or
 3 are paid prior to and during the period of construction of a project and during such
 4 additional period as the authority may reasonably determine to be necessary to place
 5 such project in operation;

6 (D) All costs of engineering, surveying, planning, environmental assessments, financial
 7 analyses, and architectural, legal, and accounting services and all expenses incurred by
 8 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,
 9 attorneys, accountants, and any other necessary technical personnel in connection with
 10 any project;

11 (E) All expenses for inspection of any project;

12 (F) All fees of fiscal agents, paying agents, and trustees for bondholders under any
 13 bond resolution, trust agreement, indenture of trust, or similar instrument or agreement;
 14 all expenses incurred by any such fiscal agents, paying agents, and trustees; and all
 15 other costs and expenses incurred relative to the issuance of any bonds, revenue bonds,
 16 notes, or other obligations for any project, including bond insurance;

17 (G) All fees of any type charged by the authority in connection with any project;

18 (H) All expenses of or incidental to determining the feasibility or practicability of any
 19 project;

20 (I) All costs of plans and specifications for any project;

21 (J) All costs of title insurance and examinations of title with respect to any project;

22 (K) Repayment of any loans for the advance payment of any part of any of the
 23 foregoing costs, including interest thereon and any other expenses of such loans;

24 (L) Administrative expenses of the authority and such other expenses as may be
 25 necessary or incidental to any project or the financing thereof or the placing of any
 26 project in operation; and

27 (M) The establishment of a fund or funds for the creation of a debt service reserve, a
 28 renewal and replacement reserve, or such other funds or reserves as the authority may
 29 approve with respect to the financing and operation of any project and as may be
 30 authorized by any bond resolution, trust agreement, indenture, or trust or similar
 31 instrument or agreement pursuant to the provisions of which the issuance of any
 32 revenue bonds, notes, or other obligations of the authority may be authorized.

33 Any cost, obligation, or expense incurred for any of the purposes specified in this
 34 paragraph shall be a part of the cost of the project and may be paid or reimbursed as such
 35 out of the proceeds of revenue bonds, notes, or other obligations issued by the authority.

36 (4) 'County' means any county created under the Constitution or laws of this state.

1 (5) 'Environmental facilities' means any projects, structures, and other real or personal
2 property acquired, rehabilitated, constructed, or planned:

3 (A) For the purposes of supplying, distributing, and treating water and diverting,
4 channeling, or controlling water flow and head, including, but not limited to, surface
5 or ground water, canals, reservoirs, channels, basins, dams, aqueducts, standpipes,
6 penstocks, conduits, pipelines, mains, pumping stations, water distribution systems,
7 compensating reservoirs, intake stations, waterworks or sources of water supply, wells,
8 purification or filtration plants or other treatment plants and works, connections, water
9 meters, mechanical equipment, electric generating equipment, rights of flowage or
10 division and other plant structures, equipment, conveyances, real or personal property
11 or rights therein and appurtenances, furnishings, accessories, and devices thereto
12 necessary or useful and convenient for the collection, conveyance, distribution,
13 pumping, treatment, storing, or disposing of water;

14 (B) For the purposes of collecting, treating, or disposing of sewage, including, but not
15 limited to, main, trunk, intercepting, connecting, lateral, outlet, or other sewers, outfall,
16 pumping stations, treatment and disposal plants, ground water ~~recharge~~ recharge
17 basins, backflow prevention devices, sludge dewatering or disposal equipment and
18 facilities, clarifiers, filters, phosphorus removal equipment and other plants, soil
19 absorption systems, innovative systems or equipment, structures, equipment, vehicles,
20 conveyances, real or personal property or rights therein, and appurtenances thereto
21 necessary or useful and convenient for the collection, conveyance, pumping, treatment,
22 neutralization, storing, and disposing of sewage;

23 (C) For the purposes of collecting, treating, recycling, composting, or disposing of
24 solid waste, including, but not limited to, trucks, dumpsters, intermediate reception
25 stations or facilities, transfer stations, incinerators, shredders, treatment plants, landfills,
26 landfill equipment, barrels, binders, barges, alternative technologies and other plant
27 structures, equipment, conveyances, improvements, real or personal property or rights
28 therein, and appurtenances, furnishings, accessories, and devices thereto necessary or
29 useful and convenient for the collection, treatment, or disposal of solid waste; or

30 (D) For the purposes of carrying out a community land conservation project or a state
31 land conservation project pursuant to Chapter 22 of Title 36.

32 (6) 'Environmental services' means the provision, collectively or individually, of water
33 facilities, sewerage facilities, solid waste facilities, community land conservation projects
34 or state land conservation projects pursuant to Chapter 22 Title 36, or management
35 services.

36 (7) 'Local government' or 'local governing authority' means any municipal corporation
37 or county or any local water or sewer or sanitary district and any state or local authority,

1 board, or political subdivision created by the General Assembly or pursuant to the
2 Constitution and laws of ~~the~~ this state.

3 (8) 'Management services' means technical, administrative, instructional, or
4 informational services provided to any current or potential loan recipient in, but not
5 limited to, the areas of service charge structure; accounting, capital improvements
6 budgeting or financing; financial reporting, treasury management, debt structure or
7 administration or related fields of financial management; contract or grant administration;
8 management of water, sewer, or solid waste systems; and economic development
9 administration or strategies. Management services may be furnished either directly,
10 ~~on-site~~ on site, or through other written or oral means of communication and may consist
11 of reports, studies, presentations, or other analyses of a written or oral nature.

12 (9) 'May' means permission and not command.

13 (10) 'Municipal corporation' or 'municipality' means any city or town in this state.

14 (11) 'Obligation' means any bond, revenue bond, note, lease, contract, evidence of
15 indebtedness, debt, or other obligation of the authority, the state, or local governments
16 which are authorized to be issued under this chapter or under the Constitution or other
17 laws of this state, including refunding bonds.

18 (12) 'Project' means:

19 (A) The ~~the~~ acquisition, construction, installation, modification, renovation, repair,
20 extension, renewal, replacement, or rehabilitation of land, interest in land, buildings,
21 structures, facilities, or other improvements and the acquisition, installation,
22 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or
23 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
24 whatsoever used on, in, or in connection with any such land, interest in land, building,
25 structure, facility, or other improvement, all for the essential public purpose of
26 providing environmental facilities and services so as to meet public health and
27 environmental standards, protect the state's valuable natural resources, or aid the
28 development of trade, commerce, industry, agriculture, and employment opportunities,
29 including, but not limited to, any project as defined by Code Section 12-5-471; and

30 (B) Projects ~~or projects~~ authorized by the Georgia Regional Transportation Authority
31 created by Chapter 32 of this title as defined in such chapter, where the authority has
32 been directed to issue revenue bonds, bonds, notes, or other obligations to finance such
33 project or the cost of a project in whole or in part, provided that the authority's power
34 with respect to such projects authorized by the Georgia Regional Transportation
35 Authority shall be limited to providing such financing and related matters as authorized
36 by the Georgia Regional Transportation Authority.

37 (13) 'Revenue bond' includes bond, note, or other obligation.

1 (14) 'Self-liquidating project' means any project or combination of projects if, in the
 2 judgment of the authority, the revenues, rents, or earnings to be derived by the authority
 3 therefrom will be sufficient to pay the cost of maintaining, repairing, and operating the
 4 project and to pay the principal and interest of revenue bonds which may be issued for
 5 the cost of such project, projects, or combination of projects.

6 (15) 'Sewerage facility' means any environmental facility described in subparagraph (B)
 7 of paragraph (5) of this Code section, defining 'environmental facilities.'

8 (15.5) 'Solid waste facility' means any environmental facility described in
 9 subparagraph (C) of paragraph (5) of this Code section, defining 'environmental
 10 facilities.'

11 (16) 'Water facility' means any environmental facility described in subparagraph (A) of
 12 paragraph (5) of this Code section, defining 'environmental facilities.'"

13 **SECTION 1-4.**

14 Said chapter is further amended by revising Code Section 50-23-5, relating to purpose,
 15 powers, and duties of the Georgia Environmental Facilities Authority, as follows:

16 "50-23-5.

17 (a) The corporate purpose and the general nature of the business of the Georgia
 18 Environmental Facilities Authority shall be assistance in constructing, extending,
 19 rehabilitating, repairing, replacing, and renewing environmental facilities necessary for
 20 public purposes and commercial, residential, and industrial development purposes or
 21 necessary or incidental to such purposes by providing grants, loans, bonds, and other forms
 22 of financial and technical assistance to local governments and instrumentalities of the state
 23 to finance any project or pay the cost of any project.

24 (b) The authority shall have power:

25 (1) To sue and be sued in all courts of this state, the original jurisdiction and venue of
 26 such actions being the Superior Court of Fulton County;

27 (2) To have a seal and alter the same at its pleasure;

28 (3) To make and execute contracts, lease agreements, and all other instruments necessary
 29 or convenient to exercise the powers of the authority or to further the public purpose for
 30 which the authority is created, such contracts, leases, or instruments to include contracts
 31 for construction, operation, management, or maintenance of projects and facilities owned
 32 by local government, the authority, or by the state or any state authority; and any and all
 33 local governments, departments, institutions, authorities, or agencies of the state are
 34 authorized to enter into contracts, leases, agreements, or other instruments with the
 35 authority upon such terms and to transfer real and personal property to the authority for
 36 such consideration and for such purposes as they deem advisable;

1 (4) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
 2 personal property of every kind and character, or any interest therein, in furtherance of
 3 the public purpose of the authority;

4 (5) To appoint an executive director who shall be executive officer and administrative
 5 head of the authority. The executive director shall be appointed and serve at the pleasure
 6 of the authority. The executive director shall hire officers, agents, and employees,
 7 prescribe their duties and qualifications and fix their compensation, and perform such
 8 other duties as may be prescribed by the authority. Such officers, agents, and employees
 9 shall serve at the pleasure of the executive director;

10 (6) To finance projects by loan, loan guarantee, grant, lease, or otherwise, and to pay the
 11 cost of any project from the proceeds of bonds, revenue bonds, notes, or other obligations
 12 of the authority or any other funds of the authority or from any contributions or loans by
 13 persons, corporations, partnerships, whether limited or general, or other entities, all of
 14 which the authority is authorized to receive, accept, and use;

15 (7) To make loans, through the acquisition of bonds, revenue bonds, notes, or other
 16 obligations, and to make grants to local governments to finance projects and to pay the
 17 cost of any project by local government and to adopt rules, regulations, and procedures
 18 for making such loans and grants;

19 (8) To borrow money to further or carry out its public purpose; ~~and~~ to issue revenue
 20 bonds, notes, or other obligations to evidence such loans; ~~and~~ to execute leases, trust
 21 indentures, trust agreements for the sale of its revenue bonds, notes, or other obligations,
 22 loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements,
 23 assignments, and such other agreements or instruments as may be necessary or desirable
 24 in the judgment of the authority; ~~and~~ to evidence and to provide security for such loans;

25 (9) To issue revenue bonds, bonds, notes, or other obligations of the authority, to receive
 26 payments from the Department of Community Affairs, and to use the proceeds thereof
 27 for the purpose of:

28 (A) Paying or loaning the proceeds thereof to pay, all or any part of, the cost of any
 29 project or the principal of and premium, if any, and interest on the revenue bonds,
 30 bonds, notes, or other obligations of any local government issued for the purpose of
 31 paying ~~in~~ in whole or in part, the cost of any project and having a final maturity not
 32 exceeding three years from the date of original issuance thereof;

33 (B) Paying all costs of the authority incidental to, or necessary and appropriate to,
 34 furthering or carrying out the purposes of the authority; and

35 (C) Paying all costs of the authority incurred in connection with the issuance of the
 36 revenue bonds, bonds, notes, or other obligations;

1 (10) To collect fees and charges in connection with its loans, commitments, management
2 services, and servicing, including, but not limited to, reimbursements of costs of
3 financing, as the authority shall determine to be reasonable and as shall be approved by
4 the authority;

5 (11) Subject to any agreement with bondholders, to invest moneys of the authority not
6 required for immediate use to carry out the purposes of this chapter, including the
7 proceeds from the sale of any bonds and any moneys held in reserve funds, in obligations
8 which shall be limited to the following:

9 (A) Bonds or other obligations of the state or bonds or other obligations, the principal
10 and interest of which are guaranteed by the state;

11 (B) Bonds or other obligations of the United States or of subsidiary corporations of the
12 United States government fully guaranteed by such government;

13 (C) Obligations of agencies of the United States government and its subsidiary
14 corporations and instrumentalities or entities sanctioned or authorized by the United
15 States government, including, but not limited to, the Federal Land Bank, the Federal
16 Home Loan Bank, the Federal Intermediate Credit Bank, Farm Credit Banks regulated
17 by the Farm Credit Administration, the Federal Home Loan Mortgage Corporation, the
18 Federal National Mortgage Association, and the Bank for Cooperatives;

19 (D) Bonds or other obligations issued by any public housing agency or municipality
20 in the United States, which bonds or obligations are fully secured as to the payment of
21 both principal and interest by a pledge of annual contributions under an annual
22 contributions contract or contracts with the United States government, or project notes
23 issued by any public housing agency, urban renewal agency, or municipality in the
24 United States and fully secured as to payment of both principal and interest by a
25 requisition, loan, or payment agreement with the United States government;

26 (E) Certificates of deposit of national or state banks or federal savings and loan
27 associations located within ~~the~~ this state which have deposits insured by the Federal
28 Deposit Insurance Corporation or any Georgia deposit insurance corporation and
29 certificates of deposit of state building and loan associations located within ~~the~~ this state
30 which have deposits insured by any Georgia deposit insurance corporation, including
31 the certificates of deposit of any bank, savings and loan association, or building and
32 loan association acting as depository, custodian, or trustee for any such bond proceeds;
33 provided, however, that the portion of such certificates of deposit in excess of the
34 amount insured by the Federal Deposit Insurance Corporation or any Georgia deposit
35 insurance corporation, if any such excess exists, shall be secured by deposit with the
36 Federal Reserve Bank of Atlanta, Georgia, or with any national or state bank located

1 within ~~the~~ this state, of one or more of the following securities in an aggregate principal
2 amount equal at least to the amount of such excess:

3 (i) Direct and general obligations of the state or of any county or municipality in ~~the~~
4 this state;

5 (ii) Obligations of the United States or subsidiary corporations included in
6 subparagraph (B) of this paragraph;

7 (iii) Obligations of agencies of the United States government included in
8 subparagraph (C) of this paragraph; or

9 (iv) Bonds, obligations, or project notes of public housing agencies, urban renewal
10 agencies, or municipalities included in subparagraph (D) of this paragraph;

11 (F) Interest-bearing time deposits, repurchase agreements, reverse repurchase
12 agreements, rate guarantee agreements, or other similar banking arrangements with a
13 bank or trust company having capital and surplus aggregating at least \$50 million or
14 with any government bond dealer reporting to, trading with, and recognized as a
15 primary dealer by the Federal Reserve Bank of New York having capital aggregating
16 at least \$50 million or with any corporation which is subject to registration with the
17 Board of Governors of the Federal Reserve System pursuant to the requirements of the
18 Bank Holding Company Act of 1956, provided that each such interest-bearing time
19 deposit, repurchase agreement, reverse repurchase agreement, rate guarantee
20 agreement, or other similar banking arrangement shall permit the moneys so placed to
21 be available for use at the time provided with respect to the investment or reinvestment
22 of such moneys;

23 (G) Prime bankers' acceptances; and

24 (H) State operated investment pools;

25 (12) To acquire or contract to acquire from any person, firm, corporation, local
26 government, federal or state agency, or corporation, by grant, purchase, or otherwise,
27 leaseholds, real or personal property, or any interest therein; and to sell, assign, exchange,
28 transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same; and any
29 local government ~~is authorized to~~ may grant, sell, or otherwise alienate leaseholds, real
30 and personal property, or any interest therein to the authority;

31 (13) To invest any moneys held in debt service funds or sinking funds not restricted as
32 to investment by the Constitution or laws of this state or the federal government or by
33 contract not required for immediate use or disbursement in obligations of the types
34 specified in paragraph (11) of this subsection, provided that, for the purposes of this
35 paragraph, the amounts and maturities of such obligations shall be based upon and
36 correlated to the debt service, which debt service shall be the principal installments and
37 interest payments, schedule for which such moneys are to be applied;

1 (14) To provide advisory, technical, consultative, training, educational, and project
2 assistance services to the state and local government and to enter into contracts with the
3 state and local government to provide such services. The state and local governments ~~are~~
4 ~~authorized to~~ may enter into contracts with the authority for such services and to pay for
5 such services as may be provided them;

6 (15) To make loan commitments and loans to local government and to enter into option
7 arrangements with local government for the purchase of said bonds, revenue bonds,
8 notes, or other obligations;

9 (16) To sell or pledge any bonds, revenue bonds, notes, or other obligations acquired by
10 it whenever it is determined by the authority that the sale thereof is desirable;

11 (17) To apply for and to accept any gifts or grants or loan guarantees or loans of funds
12 or property or financial or other aid in any form from the federal government or any
13 agency or instrumentality thereof, or from the state or any agency or instrumentality
14 thereof, or from any other source for any or all of the purposes specified in this chapter
15 and to comply, subject to the provisions of this chapter, with the terms and conditions
16 thereof;

17 (18) To lease to local governments any authority owned facilities or property or any state
18 owned facilities or property which the authority is managing under contract with the
19 state;

20 (19) To contract with state agencies or any local government for the use by the authority
21 of any property or facilities or services of the state or any such state agency or local
22 government or for the use by any state agency or local government of any facilities or
23 services of the authority, ~~and~~ such state agencies and local governments ~~are authorized~~
24 ~~to~~ may enter into such contracts;

25 (20) To extend credit or make loans, including the acquisition of bonds, revenue bonds,
26 notes, or other obligations to the state, any local government, or other entity, including
27 the federal government, for the cost or expense of any project or any part of the cost or
28 expense of any project, which credit or loans may be evidenced or secured by trust
29 indentures, loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security
30 agreements, or assignments, on such terms and conditions as the authority shall determine
31 to be reasonable in connection with such extension of credit or loans, including provision
32 for the establishment and maintenance of reserve funds; and, in the exercise of powers
33 granted by this chapter in connection with any project, the authority shall have the right
34 and power to require the inclusion in any such trust indentures, loan agreement, note,
35 mortgage, deed to secure debt, trust deed, security agreement, assignment, or other
36 instrument such provisions or requirements for guaranty of any obligations, insurance,

1 construction, use, operation, maintenance, and financing of a project and such other terms
2 and conditions as the authority may deem necessary or desirable;

3 (21) As security for repayment of any bonds, revenue bonds, notes, or other obligations
4 of the authority, to pledge, lease, mortgage, convey, assign, hypothecate, or otherwise
5 encumber any property of the authority, including, but not limited to, real property,
6 fixtures, personal property, and revenues or other funds and to execute any lease, trust
7 indenture, trust agreement, agreement for the sale of the authority's revenue bonds, notes
8 or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security
9 agreement, assignment, or other agreement or instrument as may be necessary or
10 desirable, in the judgment of the authority, to secure any such revenue bonds, notes, or
11 other obligations, which instruments or agreements may provide for foreclosure or forced
12 sale of any property of the authority upon default in any obligation of the authority, either
13 in payment of principal, premium, if any, or interest or in the performance of any term
14 or condition contained in any such agreement or instrument;

15 (22) To receive and use the proceeds of any tax levied by a local government to pay all
16 or any part of the cost of any project or for any other purpose for which the authority may
17 use its own funds pursuant to this chapter;

18 (23) To use income earned on any investment for such corporate purposes of the
19 authority as the authority in its discretion shall determine, including, but not limited to,
20 the use of repaid principal and earnings on funds, the ultimate source of which was an
21 appropriation to a budget unit of the state to make loans for solid waste projects;

22 (24) To cooperate and act in conjunction with industrial, commercial, medical, scientific,
23 public interest, or educational organizations; with agencies of the federal government and
24 this state and local government; with other states and their political subdivisions; and
25 with joint agencies thereof, and such state agencies, local government, and joint agencies
26 ~~are authorized and empowered to~~ may cooperate and act in conjunction, and to enter into
27 contracts or agreements with the authority and local government to achieve or further the
28 policies of the state declared in this chapter;

29 (25) To adopt bylaws governing the conduct of business by the authority, the election
30 and duties of officers of the authority, and other matters which the authority determines
31 to deal with in its bylaws;

32 (26) To exercise any power granted by the laws of this state to public or private
33 corporations which is not in conflict with the public purpose of the authority;

34 (27) To do all things necessary or convenient to carry out the powers conferred by this
35 chapter;

36 (28) To designate three or more of its number to constitute an executive committee who,
37 to the extent provided in such resolution or in the bylaws of the authority, shall have and

1 may exercise the powers of the authority in the management of the affairs and property
2 of the authority and the exercise of its powers;

3 (29) To procure insurance against any loss in connection with its property and other
4 assets or obligations or to establish cash reserves to enable it to act as self-insurer against
5 any and all such losses;

6 (30) To administer funds granted to the state by the administrator of the federal
7 Environmental Protection Agency pursuant to Title VI of the Federal Water Pollution
8 Control Act and Title XIV of the federal Safe Drinking Water Act, as now or hereafter
9 amended, for the purpose of providing assistance to municipalities or counties or any
10 combination thereof or to any public authority or, if authorized by law, any private
11 agency, commission, or institution for construction of treatment works as that term is
12 defined in Section 212 of the federal Clean Water Act of 1977, P.L. 95-217, which are
13 publicly owned. The authority ~~is further authorized to~~ may also administer funds granted
14 to the state by the administrator of the federal Environmental Protection Agency pursuant
15 to Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for
16 the purpose of providing assistance to municipalities or counties or any combination
17 thereof or any public or, if authorized by law, any private authority, agency, commission,
18 or institution for the construction of public drinking water works as such term is defined
19 in Section 1401 of the federal Safe Drinking Water Act Amendments of 1986, P.L.
20 99-339. The authority ~~is further authorized to~~ may also administer funds granted to the
21 state by the administrator of the federal Environmental Protection Agency pursuant to 33
22 U.S.C.A. Section 1381, et seq., for the purpose of providing financial assistance for any
23 eligible water pollution control project. The authority shall deposit any such funds
24 received from the administrator of the federal Environmental Protection Agency into a
25 separate water pollution control revolving fund or a drinking water revolving fund
26 transferred to the authority from the Environmental Protection Division of the
27 Department of Natural Resources or hereafter established; provided, however, that where
28 appropriate, the authority may deposit funds received from the administrator of the
29 federal Environmental Protection Agency into the Georgia Reservoir Fund established
30 by Code Section 50-23-28. The forms and administration of such funds shall be
31 established by the authority in accordance with federal requirements;

32 (30.1) To exercise any powers necessary or convenient to conduct the activities and
33 perform the acts that are contemplated for the authority by Chapter 22 of Title 36;

34 (30.2) To fund, or partially fund, the Georgia Land Conservation Revolving Loan Fund
35 established by Chapter 22 of Title 36;

36 (30.3) To fund, or partially fund, the Georgia Reservoir Fund established by Code
37 Section 50-23-28. Proceeds of any bonds authorized by the General Assembly for the

1 purposes of said Code section, and any repayment of such proceeds after their
 2 expenditure, may be deposited in such fund:

3 (31) To contract with ~~the director of~~ the Environmental Protection Division and the
 4 Water Supply Division of the Department of Natural Resources for the implementation
 5 and operation, in whole or in part, of any drought protection or reservoir program; and

6 (32) To lend any of the securities of the type described in this subsection.

7 (c) The authority shall not have the power of eminent domain."

8 **SECTION 1-5.**

9 Said chapter is further amended by revising Code Section 50-23-6, relating to grants and
 10 loans to local governments and payments, as follows:

11 "50-23-6.

12 (a) The authority may make grants to governmental entities as provided for in Chapter 22
 13 of Title 36 and as otherwise provided by law.

14 (b) The authority may make loans to a local government to pay all or any part of the cost
 15 of a project. The authority may require ~~the~~ such local government to issue bonds or
 16 revenue bonds as evidence of such loans. The authority and a local government may enter
 17 into such loan commitments and option agreements as may be determined appropriate by
 18 the authority.

19 (c) The authority may require as a condition of any loan to a local government that such
 20 local government shall perform any or all of the following:

21 (1) As appropriate and permitted by law, establish and collect taxes, rents, rates, fees,
 22 and charges so as to produce revenues sufficient to pay all or a specified portion of:

23 (A) Costs of operation, maintenance, replacement, renewal, and repairs; and

24 (B) Outstanding indebtedness incurred for the purposes of such project, including the
 25 principal of and interest on the bonds, revenue bonds, notes, or other obligations issued
 26 by the local government, as the same shall become due and payable, and to create and
 27 maintain any required reserves;

28 (2) Create and maintain a special fund or funds as additional security for the payment of
 29 the principal revenue bonds and the interest thereon and any other amounts becoming due
 30 under any agreement entered into in connection with such bonds and for the deposit of
 31 such revenues as shall be sufficient to make such payment as the same shall become due
 32 and payable;

33 (3) Create and maintain such other special funds as may be required by the authority; and

34 (4) Such other acts, including the conveyance of real and personal property together with
 35 all right, title, or interest therein to the authority, as may be deemed necessary or desirable
 36 by the authority to secure the payment of the principal of and interest on bonds, revenue

1 bonds, notes, or other obligations and to provide for the remedies of the authority in the
2 event of any default by such local government in such payment.

3 (d) All local governments issuing and selling bonds, revenue bonds, notes, or other
4 obligations to the authority ~~are authorized to~~ may perform such acts, take such action,
5 adopt such proceedings, and make and carry out such contracts with the authority as may
6 be contemplated by this article.

7 (e) In connection with the making of any loan authorized by this article, the authority may
8 fix and collect such fees and charges, including, but not limited to, reimbursement of all
9 costs of financing by the authority, as the authority shall determine to be reasonable.

10 Neither the Public Service Commission nor any local government or state agency shall
11 have jurisdiction over the authority's power over the regulation of such fees or charges.

12 (f) A mutual undertaking by a local government to borrow and an undertaking by the
13 authority to lend funds from and to each other for projects shall be a provision for services
14 and an activity within the meaning of Article IX, Section III, Paragraph I(a) of the
15 Constitution.

16 (g) For the purpose of supplementing and extending the ability of the authority to expedite
17 and accommodate the construction of projects, the authority may enter into arrangements,
18 consistent with existing bond indenture and other obligations of the authority, whereby the
19 authority agrees to enter into one or more notes with a financial institution or other lender,
20 the proceeds of which shall be payable to the authority and which constitute an obligation
21 of the authority, together with a companion note or notes on substantially the same terms
22 payable from the authority to a local government, with such companion notes, and the
23 obligation of repayment thereon, pledged as security for the repayment of such notes, on
24 such terms as may be agreeable to the parties thereto."

25 SECTION 1-6.

26 Said chapter is further amended by revising Code Section 50-23-9, relating to review of
27 contracts and agreements by Environmental Protection Division or Georgia Land
28 Conservation Council, as follows:

29 "50-23-9.

30 (a) The Except as otherwise provided by Article 6 of Chapter 5 of Title 12, the authority
31 shall not enter into any contract or agreement with any local government with respect to
32 the financing of any environmental facility pursuant to this article; unless the director of
33 the Environmental Protection Division and, as to any environmental facility described in
34 subparagraph (A) of paragraph (5) of Code Section 50-23-4, the Water Supply Division of
35 the Department of Natural Resources, shall have completed all existing statutory reviews
36 and approvals with respect to such project. Nothing in this article shall be construed to

1 diminish the full authority and responsibility of ~~the director of the Environmental~~
 2 ~~Protection Division~~ said directors for existing statutory reviews and approvals.

3 (b) The authority shall not enter into any contract or agreement with any local government
 4 or the Department of Natural Resources with respect to the financing, by loan or grant, of
 5 any community land conservation project or state land conservation project pursuant to
 6 Chapter 22 of Title 36 unless the Georgia Land Conservation Council has approved the
 7 community land conservation project or state land conservation project and the chairperson
 8 has directed the authority to execute the approval decision of the Georgia Land
 9 Conservation Council. Nothing in this article shall be construed to diminish the full
 10 authority and responsibility of the Georgia Land Conservation Council's existing statutory
 11 reviews and approvals."

12 SECTION 1-7.

13 Said chapter is further amended by revising Code Section 50-23-19, relating to limitations
 14 on issue of bonds, as follows:

15 "50-23-19.

16 Nothing contained in this article shall permit the authority to issue bonds or revenue bonds
 17 at any time when the sum of:

18 (1) The highest aggregate annual debt service requirements for the then current fiscal
 19 year or any subsequent fiscal year for outstanding authority bonds or revenue bonds,
 20 including the proposed bonds or revenue bonds; and

21 (2) The highest annual debt service requirements for the then current fiscal year or any
 22 subsequent fiscal year on general obligation debt of the state issued for authority projects
 23 exceeds 1 percent of the total revenue receipts, less refunds, of the state treasury in the
 24 fiscal year immediately preceding the year in which any such bond or revenue bond is to
 25 be issued; provided, however, that unless the director of the Water Supply Division of the
 26 Department of Natural Resources has issued the certification provided for by Code Section
 27 12-5-480, the authority, with the approval of the Governor and the commission established
 28 by Article VII, Section IV, Paragraph VII of the Constitution, may issue bonds for the
 29 purposes of Article 6 of Chapter 5 of Title 12 notwithstanding such limitations."

30 SECTION 1-8.

31 Said chapter is further amended by designating the existing provisions of Article 1 as Part 1
 32 of said article and adding a new part to read as follows:

"Part 2

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50-23-25.

As used in this part, the term 'division' means the Water Resources Division of the Georgia Environmental Facilities Authority.

50-23-26.

There is created within the Georgia Environmental Facilities Authority a Water Resources Division. The executive director of the authority or an employee of the authority designated by the director shall serve as the director of the division and shall have full authority over the operation, personnel, and facilities of the division.

50-23-27.

The division shall have the authority and responsibility to:

(1) Administer this part;

(2) Coordinate with the Water Supply Division of the Department of Natural Resources and with other departments, divisions, agencies, or officials of this state or political subdivisions thereof and appropriate private and professional organizations in matters related to water supply. The division and any other department, educational institution, agency, or official of this state or political subdivision thereof which in any way would affect the administration or enforcement of this part shall be required to coordinate all such activities with the division to assure orderly and efficient administration and enforcement of this part;

(3) Do all things necessary to cooperate with the United States government and qualify for, accept, and disburse any public or private grant intended for the administration of this part;

(4) Apply for, receive, accept, and administer federal funds and programs made available to this state for the purposes of this part;

(5) Contract for services if such services cannot be satisfactorily performed by employees of the division or by any other state agency;

(6) Design and implement programs to assist local governing authorities and other entities in implementing water supply projects; and

(7) Exercise such powers and perform such duties as assigned to it under Article 6 of Chapter 5 of Title 12.

1 50-23-28.

2 (a) Pursuant to paragraph (3) of subsection (c) of Code Section 50-23-6, there shall be
3 established the Georgia Reservoir Fund, to consist of proceeds of bonds issued under this
4 article for purposes of this part, any moneys paid to the authority under intergovernmental
5 contracts for purposes of this part, voluntary contributions to such fund, and any federal
6 moneys deposited in such fund. Moneys which are restricted as to their usage, including,
7 but not limited to, restrictions on the kinds of projects for which the moneys may be
8 expended or loaned, on the entity that may receive grants or loans of such moneys, on the
9 manner in which such moneys may be expended or loaned, and any other condition,
10 limitation, or restriction, may nevertheless be deposited in the fund so long as any such
11 restriction shall not prevent the moneys so deposited from being expended, loaned, or
12 otherwise used in a manner that is inconsistent with the purposes of this part. All balances
13 in the fund shall be deposited in interest-bearing accounts.

14 (b) The authority shall administer the fund and may use the fund:

15 (1) For projects as defined by Code Section 12-5-471, in accordance with this article and
16 Article 6 of Chapter 5 of Title 12; and

17 (2) To pay water conservation tax credits pursuant to the terms of Code
18 Section 48-7-40.27 and agreement with the state revenue commissioner as authorized
19 therein.

20 (c) The authority shall prepare, by June 30 of each year, an accounting of the moneys
21 received and expended from the fund. The report shall be made available to the members
22 of the General Assembly and shall be public record.

23 (d) Principal and interest payments on loans made from the fund may be deferred for a
24 maximum of 20 years or until construction of the project is completed, whichever is later.

25 (e) The authority may expend moneys from the fund for the costs of planning, engineering,
26 architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs
27 without the designation of such funds to a specific project or the final regulatory or
28 statutory review and approval of such project if the director determines that a reasonable
29 expectation exists that the expenditure of such funds will further the purposes of this part
30 or Article 6 of Chapter 5 of Title 12.

31 50-23-29.

32 The authority may promulgate and adopt rules and regulations to carry out the purposes of
33 this part."

1 **PART II**

2 **SECTION 2-1.**

3 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
4 is amended by revising Code Section 12-5-4, relating to rules and regulations relative to
5 water conservation plans, as follows:

6 "12-5-4.

7 ~~(a) The Board of Natural Resources shall adopt rules and regulations relating to the~~
8 ~~conduct, content, and submission of the water conservation plans required by Code~~
9 ~~Sections 12-5-31 and 12-5-96.~~

10 ~~(b) The director of the Environmental Protection Division of the Department of Natural~~
11 ~~Resources shall appoint a task force to assist in the writing of the rules and regulations~~
12 ~~required by subsection (a) of this Code section. The task force shall have 12 members.~~
13 ~~Three members shall represent the business and industry community, three shall represent~~
14 ~~the agriculture industry, three shall represent local governments, and three shall represent~~
15 ~~environmental and citizens groups. The members of the task force shall serve without~~
16 ~~compensation or reimbursement of expenses. The task force shall disband upon the~~
17 ~~adoption by the Board of Natural Resources of the rules and regulations provided for in~~
18 ~~subsection (a) of this Code section. Reserved."~~

19 **SECTION 2-2.**

20 Said chapter is further amended by revising subsections (e), (h), and (n) of Code Section
21 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters
22 generally and for farm use, as follows:

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

- 28 (1) The number of persons using the particular water source and the object, extent, and
29 necessity of their respective withdrawals, diversions, or impoundments;
- 30 (2) The nature and size of the water source;
- 31 (3) The physical and chemical nature of any impairment of the water source adversely
32 affecting its availability or fitness for other water uses;
- 33 (4) The probable severity and duration of such impairment under foreseeable conditions;
- 34 (5) The injury to public health, safety, or welfare which would result if such impairment
35 were not prevented or abated;

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

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

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

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

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

14 "(h) Except for applications filed pursuant to paragraph (3) of subsection (a) of this Code
15 section, permits may be granted for any period of time not less than ten years, unless the
16 applicant requests a shorter period of time, nor more than 50 years. The director may base
17 the duration of such permits on any reasonable system of classification based upon but not
18 necessarily limited to such factors as source of supply and type of use. In evaluating any
19 application for a permit for the use of water for a period of 25 years or more, the director
20 shall evaluate the condition of the water supply to assure that the supply is adequate to
21 meet the multiple needs of the citizens of the state as can reasonably be projected for the
22 term of the permit and ensure that the issuance of such permit is based upon a water
23 development and conservation ~~plan~~ plans for the applicant ~~or~~ and for the region in
24 accordance with Article 8 of this chapter. Such water development and conservation ~~plan~~
25 plans for the applicant ~~or~~ and for the region shall promote the conservation and reuse of
26 water within the state, guard against a shortage of water within the state, promote the
27 efficient use of the water resource, and be consistent with the public welfare of the state,
28 in accordance with Article 8 of this chapter. The board shall promulgate regulations for
29 implementation of this subsection, including provisions for review of such permits
30 periodically or upon a substantial reduction in average annual volume of the water resource
31 which adversely affects water supplies to determine that the permittee continues in
32 compliance with the conditions of the permit and that the plan continues to meet the overall
33 supply requirements for the term of the permit. ~~In the event the director determines that~~
34 ~~a regional plan is required in connection with any application for a permit for the use of~~
35 ~~water for a period of 25 years or more, the division or a person or entity designated by the~~
36 ~~division may develop such a plan.~~ Regional water plans shall be developed in accordance
37 with Article 8 of this chapter. Such regional ~~plan~~ plans 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, in accordance with Article 8 of this chapter."

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

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

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

19 SECTION 2-3.

20 Said chapter is further amended by revising subsections (d) and (e) of Code Section 12-5-96,
 21 relating to permits to withdraw, obtaining, or use of ground water, as follows:

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

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

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

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

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

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

33 (6) The kinds of businesses or activities to which the various uses are related;

34 (7) The importance and necessity of the uses, including farm uses, claimed by permit
 35 applicants under this Code section, or of the water uses of the area under Code

1 Section 12-5-95, and the extent of any injury or detriment caused or expected to be
2 caused to other water uses, including public use;

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

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

7 (10) Any other relevant factors.

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

24 SECTION 2-4.

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

28 "(d) The proposed comprehensive state-wide water management plan may include a
29 process for creating draft river basin management plans and draft ground-water
30 management plans and how such plans are finalized and revised, including the designation
31 of persons responsible for developing regional plans, required contents of such plans, and
32 how the public may participate in the creation and revision of such plans.

33 (e) The division shall make all water withdrawal permitting decisions in accordance with
34 this chapter and the comprehensive state-wide water management plan that has been
35 approved or enacted by the General Assembly as provided by this article, including, but not
36 limited, to restrictions, if any, on diversion from or reduction of flows in other

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

5 **PART III**

6 **SECTION 3-1.**

7 (a) This part and Part II of this Act shall become effective upon approval of this Act by the
8 Governor or upon this Act becoming law without such approval.

9 (b) Part I of this Act shall become effective on July 1, 2008.

10 **SECTION 3-2.**

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