The House Committee on Natural Resources and Environment offers the following substitute to HB 1226:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to extensively revise certain provisions relating to water supply; to confer certain powers and duties upon a Water Supply Division of the Georgia Environmental Facilities Authority; to change certain provisions relating to rules and regulations relative to water conservation plans; to change certain provisions relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm use; to change certain provisions relating to permits to withdraw, obtaining, or use of ground water; to change certain provisions relating to a policy statement for comprehensive state-wide water management planning, guiding principles, and requirements of plans; to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax imposition, rate, computation, and exemptions, so as to provide for tax credits for certain qualified equipment that reduces business or domestic water usage; to amend Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental Facilities Authority and the Division of Energy Resources, so as to change certain provisions relating to definitions; to change certain provisions relating to purpose, powers, and duties of the authority; to change certain provisions relating to review of contracts and agreements by the Environmental Protection Division or the Georgia Land Conservation Council; to change certain provisions relating to limitations on issue of bonds; to provide for a Water Resources Division of the authority and its powers and duties; to provide for a Georgia Reservoir Fund; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

″ARTICLE 6

12-5-470.

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

12-5-470.1.

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

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

(c) Projects provided for by this article shall comply with Article 8 of this chapter and any rules, regulations, or state-wide or regional water plans pursuant thereto.

(d) Nothing in this article shall be construed to diminish the full authority and responsibility of the director of the Environmental Protection Division of the department for existing statutory reviews and approvals.

12-5-471.

As used in this article, the term:

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

~~(1)~~(1.1) 'County' means any county created under the Constitution or laws of this state.

(1.2) 'Director' means the director of the division.

(1.3) 'Division' means the Water Supply Division of the Georgia Environmental Facilities Authority created by Code Section 50-23-26.

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

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

(11) 'Water facilities' means any projects, structures, and other real or personal property acquired, rehabilitated, constructed, or planned for the purposes of supplying, distributing, and treating water and diverting, channeling, or controlling water flow and head, including, but not limited to, surface or ground water, canals, reservoirs, channels, basins, dams, aqueducts, standpipes, penstocks, conduits, pipelines, mains, pumping

stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, mechanical equipment, electric generating equipment, rights of flowage or division, and other plant structures, equipment, conveyances, real or personal property or rights therein and appurtenances, furnishings, accessories, and devices thereto necessary or useful and convenient for the collection, conveyance, distribution, pumping, treatment, storing, or disposing of water.

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

12-5-472.

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

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

(b.1)(1) The division shall coordinate with the Parks, Recreation and Historic Sites Division of the department for the purpose of acquiring sufficient land surrounding any reservoir acquired or constructed by the division to protect such reservoir, to provide for future expansion of such reservoir, and to provide passive recreational opportunities on and around such reservoir. No development shall be permitted on any such reservoir or its surrounding lands so acquired other than public development appropriate for such passive uses. The acquisition of such lands shall be a cost of project for purposes of this article, and the division, the authority, and the Parks, Recreation and Historic Sites Division may utilize any funds available to them for such purposes.

(2) Any such surrounding lands acquired by the state shall be part of the state park system under the control of the department pursuant to Code Section 12-3-31, and the management of passive recreational uses of any such reservoir controlled by the state shall be vested in the Parks, Recreation and Historic Sites Division; except that, where it is not feasible to manage such land as a state park, then such surrounding lands acquired by the state may be managed as wildlife management areas by the Wildlife Resources Division of the department.

(3) All uses of any such reservoirs and acquired surrounding lands shall be subordinate to the use of such reservoirs for water supply purposes. No motorized vessels other than those being operated by electric motors shall be allowed on such reservoirs. As used in this paragraph, the term 'vessel' has the meaning provided by Code Section 52-7-3.

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

(d) The division, in cooperation with the department, shall take all reasonable steps at the earliest practicable date to inventory and survey feasible sites for water reservoirs within the State of Georgia. The director shall present the preliminary results of such inventory and survey to the legislative oversight committee created by Code Section 12-5-484 not later than October 1, 2008, together with a report describing measures undertaken by the division and the authority to expedite the accomplishment of the purposes of this article. The director shall thereafter report quarterly to such committee on the activities of the division and progress toward the accomplishment of such purposes in such format as may be directed by the cochairpersons of such committee. It is the intent of the General Assembly that the division take all reasonable and practicable steps to expedite the accomplishment of such purposes and that the division utilize its reporting responsibilities to apprise the committee promptly of legal, statutory, or other barriers to expedited accomplishment of such purposes, together with recommended measures to mitigate or avoid such barriers.

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

(f) Costs of projects and other expenses incurred by the division for purposes of this article may be paid from funds made available to the division for such purposes and may be financed or paid by the authority as provided by Article 1 of Chapter 23 of Title 50.

12-5-472.1.

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

government of such permits, licenses, and permissions at such time as appropriate for the construction of such projects.

(b) In discharging its duties and responsibilities pursuant to the terms of this article, and specifically in identifying appropriate sites for projects and procuring permits, licenses, and permissions for projects, whether owned by the division or otherwise, the division shall utilize to the maximum extent practicable the procurement of services from the department and private sector persons and entities qualified to perform such work. It is the intent of General Assembly that the division minimize the hiring of officers and employees for the purposes of this article.

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

12-5-473.

The ~~department~~ division shall have the following powers:

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

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

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

(4) To make and execute contracts, lease agreements, and all other instruments necessary to exercise the powers of the ~~department~~ division to further the public purpose for which this article was enacted, such contracts, leases, or instruments to include contracts for construction, operation, management, or maintenance of projects and facilities owned by a local government or by the state or any state authority; and any and all local governments and departments, institutions, authorities, or agencies of the state ~~are~~

~~authorized to~~ may enter into contracts, leases, agreements, or other instruments with the ~~department~~ division upon such terms and to transfer real and personal property to the state for the use of the ~~department~~ division for such consideration and for such purposes as they deem advisable;

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

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

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

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

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

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

(11) To do all things necessary or convenient to carry out the powers conferred by this ~~title~~ article and to enter into such agreements with the department as are necessary and useful for such purpose. The department is expressly authorized to enter into agreements with the division for such purposes.

12-5-474.

(a) The ~~department is authorized to~~ division may fix rentals, fees, prices, and other charges which any user, concessionaire, franchisee, or vendor shall pay to the ~~department~~ division

for the use of a project or part thereof or combination thereof, and for the goods and services provided by the ~~department~~ division in conjunction with such use, as the ~~department~~ division may deem necessary or appropriate to provide in connection with such use, and to charge and collect the same. Such rentals, fees, prices, and other charges shall be so fixed and adjusted in respect to the aggregate thereof from a project or any part thereof so as to be reasonably expected to provide a fund sufficient with other revenues of such project and funds available to the ~~department~~ division, if any, to pay the cost of maintaining, repairing, and operating a project, including the reserves for extraordinary repairs and insurance, unless such cost shall be otherwise provided for, which costs shall be deemed to include the expenses incurred by the ~~department~~ division on account of a project for water, light, sewer, and other services furnished by other facilities at such project. Such fees shall be fixed after consideration of input from local governments served by the project to which the fees pertain.

(b) ~~Notwithstanding any other provision of law, the department is authorized to retain all miscellaneous~~ All those funds generated by the operation of the projects ~~for use in the operation and maintenance of those sites and facilities. Any such funds not expended for this purpose in the fiscal year in which they are generated~~ and paid to the division shall be deposited in the Georgia Reservoir Fund established by Code Section 50-23-28 ~~state treasury, provided that nothing in this Code section shall be construed so as to allow the department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; provided, further, that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds~~.

(c) The ~~department~~ division may establish the terms and conditions upon which any lessee, sublessee, licensee, user, franchisee, or vendor shall be authorized to use a project as the ~~department~~ division may determine necessary or appropriate~~; and the department shall require a water conservation plan approved pursuant to rules and regulations prescribed by the Board of Natural Resources~~, subject to the limitations provided for by this article.

12-5-475.

(a) It shall be the duty of the ~~Board of Natural Resources~~ authority, in consultation with the Environmental Protection Division of the department, to prescribe rules and regulations governing the selection of sites for projects. Such rules and regulations shall include, but shall not be limited to, provisions for:

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

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

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

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

12-5-476.

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

(b) Except as otherwise provided in ~~subsection (c) of Code Section 12-5-472~~ this article, any such contract shall provide that the local government shall reimburse the ~~department~~ division for all of the costs, liabilities, and expenses of the ~~department~~ division incurred by the ~~department~~ division in exercising such powers or providing such goods or services; and the ~~department~~ division shall not directly or indirectly be liable for any liability, cost, or expense incurred by such local government in the acquisition, construction, operation, management, or maintenance of a project.

(c) If, in order to accomplish the objectives of this article, it is advisable, in the judgment of the director and the authority, to construct a project that is larger than one which a local

government proposes to construct, the division may participate by agreement with such local government in planning, designing, constructing, operating, and maintaining such project and, in so participating, shall finance those costs of the project allocated to the state and such other and further costs as may be agreed upon between the parties, such that the project shall accomplish the maximum water development objectives at a minimum total expenditure.

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

12-5-476.1.

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

(b) The division and the department may enter into agreements with agencies or instrumentalities of the federal government, setting fees to be paid by the division or the department for the purpose of enabling the division or the department to expedite or enhance the federal regulatory process and to provide services requested under the agreement with respect to projects. Pursuant to such agreement, the division and the department may fund the cost of hiring additional temporary staff members, contracts for services, or the provision of additional services for the purposes of this article. Such fees shall constitute a cost of project for purposes of this article and Chapter 23 of Title 50.

12-5-477.

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

12-5-478.

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

12-5-479.

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

(b) Pursuant to any such contract, in connection with any facility authorized under this article, the ~~department~~ division may undertake such facility or provide such services or facilities of the ~~department~~ division, in whole or in part, to or for the benefit of the public entity contracting with the ~~department~~ division with respect to those activities, services, or facilities which the contracting public entity is authorized by the Constitution and law to provide, including, but not limited to, those set forth in Article IX, Section III, Paragraph I of the Constitution, and any such contracting public entity ~~is authorized to~~ may undertake to pay the ~~department~~ division for such activities, services, or facilities such amounts and upon such terms as the parties may determine.

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

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

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

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

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

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

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

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

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

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

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

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

12-5-480.

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

12-5-481.

It is found, determined, and declared that the carrying out of the purposes of the ~~department~~ division as defined in this article is in all respects for the benefit of the people of this state and that the purposes are public purposes; that the ~~department~~ division will be performing an essential governmental function in the exercise of the powers conferred upon it by this article; and that the activities authorized in this article will develop and promote trade, commerce, industry, and employment opportunities to the public good and the general welfare and promote the general welfare of the state.

12-5-482.

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

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

12-5-483.

Any waiver by the division or the department of any costs or fees owed by any local government to the division or the department under this article shall constitute a grant in the amount of such waiver to such local government pursuant to Code Section 50-23-6 or Article VII, Section III, Paragraph II of the Constitution.

12-5-484.

There is created as a joint committee of the General Assembly the Georgia Water Supply Act Legislative Oversight Committee, to be composed of the members of the House Committee on Natural Resources and Environment and the Senate Natural Resources and the Environment Committee. The chairpersons of such committees shall serve as cochairpersons of the oversight committee. The oversight committee shall periodically inquire into and review the operations of the division, as well as periodically review and evaluate the success with which the division is accomplishing its statutory duties and functions as provided in this article. The oversight committee may conduct any independent audit or investigation of the division it deems necessary.

SECTION 1-2.

Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental Facilities Authority and the Division of Energy Resources, is amended by revising paragraph (12) of Code Section 50-23-4, relating to definitions, as follows:

"(12) 'Project' means:

(A) The ~~the~~ acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of providing environmental facilities and services so as to meet public health and environmental standards, protect the state´s valuable natural resources, or aid the

development of trade, commerce, industry, agriculture, and employment opportunities, including, but not limited to, any project as defined by Code Section 12-5-471; and (B) Projects ~~or projects~~ authorized by the Georgia Regional Transportation Authority created by Chapter 32 of this title as defined in such chapter, where the authority has been directed to issue revenue bonds, bonds, notes, or other obligations to finance such project or the cost of a project in whole or in part, provided that the authority´s power with respect to such projects authorized by the Georgia Regional Transportation Authority shall be limited to providing such financing and related matters as authorized by the Georgia Regional Transportation Authority.″

SECTION 1-3.

Said chapter is further amended by revising paragraphs (30) and (31) of Code Section 50-23-5, relating to purpose, powers, and duties of the Georgia Environmental Facilities Authority, and by adding after said paragraphs new paragraphs (31.1) and (31.2), as follows:

″(30) To administer funds granted to the state by the administrator of the federal Environmental Protection Agency pursuant to Title VI of the Federal Water Pollution Control Act and Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for the purpose of providing assistance to municipalities or counties or any combination thereof or to any public authority or, if authorized by law, any private agency, commission, or institution for construction of treatment works as that term is defined in Section 212 of the federal Clean Water Act of 1977, P.L. 95-217, which are publicly owned. The authority ~~is further authorized to~~ may also administer funds granted to the state by the administrator of the federal Environmental Protection Agency pursuant to Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for the purpose of providing assistance to municipalities or counties or any combination thereof or any public or, if authorized by law, any private authority, agency, commission, or institution for the construction of public drinking water works as such term is defined in Section 1401 of the federal Safe Drinking Water Act Amendments of 1986, P.L. 99-339. The authority ~~is further authorized to~~ may also administer funds granted to the state by the administrator of the federal Environmental Protection Agency pursuant to 33 U.S.C.A. Section 1381, et seq., for the purpose of providing financial assistance for any eligible water pollution control project. The authority shall deposit any such funds received from the administrator of the federal Environmental Protection Agency into a separate water pollution control revolving fund or a drinking water revolving fund transferred to the authority from the Environmental Protection Division of the Department of Natural Resources or hereafter established; provided, however, that where appropriate, the authority may deposit funds received from the administrator of the

federal Environmental Protection Agency into the Georgia Reservoir Fund established by Code Section 50-23-28. The forms and administration of such funds shall be established by the authority in accordance with federal requirements;″

″(31) To contract with ~~the director of~~ the Environmental Protection Division of the Department of Natural Resources for the implementation and operation, in whole or in part, of any drought protection or reservoir program and for the purposes of Article 6 of Chapter 5 of Title 12; ~~and~~

(31.1) To fund, or partially fund, the Georgia Reservoir Fund established by Code Section 50-23-28. Proceeds of any bonds authorized by the General Assembly for the purposes of said Code section, and any repayment of such proceeds after their expenditure, may be deposited in such fund;

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

SECTION 1-4.

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

″50-23-9.

(a) Except as otherwise provided by Article 6 of Chapter 5 of Title 12, the ~~The~~ authority shall not enter into any contract or agreement with any local government with respect to the financing of any environmental facility pursuant to this article, unless the director of the Environmental Protection Division of the Department of Natural Resources, shall have completed all existing statutory reviews and approvals with respect to such project. Nothing in this article shall be construed to diminish the full authority and responsibility of the director of the Environmental Protection Division of the Department of Natural Resources for existing statutory reviews and approvals.

(b) The authority shall not enter into any contract or agreement with any local government or the Department of Natural Resources with respect to the financing, by loan or grant, of any community land conservation project or state land conservation project pursuant to

Chapter 22 of Title 36 unless the Georgia Land Conservation Council has approved the community land conservation project or state land conservation project and the chairperson has directed the authority to execute the approval decision of the Georgia Land Conservation Council. Nothing in this article shall be construed to diminish the full authority and responsibility of the Georgia Land Conservation Council´s existing statutory reviews and approvals.″

SECTION 1-5.

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

″50-23-19.

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

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

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

SECTION 1-6.

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

″Part 2

50-23-25.

As used in this part, the term 'division' means the Water Supply Division of the Georgia Environmental Facilities Authority created by Code Section 50-23-26.

50-23-26.

There is created within the Georgia Environmental Facilities Authority a Water Supply 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 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 or Article 6 of Chapter 5 of Title 12 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 or contracted to the division or the authority under Article 6 of Chapter 5 of Title 12.

50-23-28.

(a) There shall be established the Georgia Reservoir Fund, to consist of proceeds of bonds issued under this article for purposes of this part, any moneys paid to the authority under intergovernmental contracts for purposes of this part, voluntary contributions to such fund, and any federal moneys deposited in such fund. Moneys which are restricted as to their usage, including, but not limited to, restrictions on the kinds of projects for which the moneys may be expended or loaned, on the entity that may receive grants or loans of such moneys, on the manner in which such moneys may be expended or loaned, and any other

condition, limitation, or restriction, may nevertheless be deposited in the fund so long as any such restriction shall not prevent the moneys so deposited from being expended, loaned, or otherwise used in a manner that is inconsistent with the purposes of this part. All balances in the fund shall be deposited in interest-bearing accounts.

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

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

(2) To improve or extend the waters of the state by paying water conservation tax credits pursuant to the terms of Code Section 48-7-40.27 and agreement with the state revenue commissioner as authorized therein.

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

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

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

50-23-29.

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

PART II

SECTION 2-1.

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

″48-7-40.27.

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

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

(2) 'Qualified equipment' means all machinery and equipment certified pursuant to rules and regulations promulgated by the director of the Water Supply Division of the Georgia

Environmental Facilities Authority, in consultation with the state revenue commissioner and the Department of Natural Resources, as effective in reducing business or domestic water usage, including, without limitation, recirculating or reuse devices designed to supplant or replace septic tanks, demand water heaters designed to reduce water wastage, and low flow water appliances and toilets.

(b) Rules and regulations of the Water Supply Division of the Georgia Environmental Facilities Authority shall establish classifications or categories of qualified equipment, and no item of such qualified equipment shall be included in more than one classification or category for purposes of claiming a tax credit under this Code section. The director of the Water Supply Division of the Georgia Environmental Facilities Authority, the Department of Natural Resources, and the department may take all reasonable and necessary steps to identify qualified equipment and to bring such equipment to the attention of businesses in this state qualified to install such equipment.

(c) Any taxpayer who is the ultimate purchaser of an item of qualified equipment for installation as part of new construction or for retrofit in this state shall be allowed a single credit against the tax imposed under this article in the taxable year in which such qualified equipment has been placed in service. Such credit shall have a maximum carry forward of ten years. The amount of the credit allowed under this Code section shall be a percentage of the cost of the qualified equipment to be fixed for each classification or category of such equipment by rules and regulations promulgated by the Georgia Environmental Facilities Authority in consultation with the department, not to exceed the lesser of 25 percent of the cost thereof or $2,000.00.

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

(1) Such credit shall be transferable by the taxpayer to a taxpayer that is a homebuilder, home remodeler, or manufacturer, seller, or installer of qualified equipment in this state, pursuant to rules and regulations promulgated by the department and designed to simplify and encourage such transfers. Transfer of any credit for less than the full value thereof, except for a reasonable allowance for administrative costs of the transferee, shall be prohibited. Where the amount of such transferred credit or credits exceeds the transferee´s liability for taxes imposed under this article in a taxable year, the excess may be taken as a credit against such transferee´s quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such transferee´s quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits

against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the transferee; and

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

(e) The state revenue commissioner may enter into agreements with the Georgia Environmental Facilities Authority under which said authority may utilize the Georgia Reservoir Fund created by Code Section 50-23-28 for the purpose of improving and extending the waters of the state by payment of all or any part of the tax credits claimed under this Code section, and moneys within such fund may be disbursed by the authority to the department pursuant to any such agreement for such purpose. Such agreement shall be structured such that, in the judgment of the director of said authority, sufficient funds shall be available from time to time in the fund to defray the anticipated operational and project costs payable from such fund. Any such agreement shall provide that the department shall pay, for deposit into such fund, an amount sufficient to offset such payments from such fund, without interest, from funds available to the department under such terms and conditions as may be agreed to between the state revenue commissioner and the Georgia Environmental Facilities Authority but, in any event, not later than the fifth fiscal year following the fiscal year in which such funds were paid or disbursed. Any such agreement shall include provisions permitting the acceleration of payments, or any portion thereof, upon request by the Georgia Environmental Facilities Authority, where immediate availability of funds is necessary for the completion of a project as defined by Code Section 12-5-471. No such agreement, and no portion of any payment under such agreement, shall be pledged or assigned as security for the repayment of obligations of the Georgia Environmental Facilities Authority.

PART III

SECTION 3-1.

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

″12-5-4.

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

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

SECTION 3-2.

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

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

(1) The number of persons using the particular water source and the object, extent, and necessity of their respective withdrawals, diversions, or impoundments;

(2) The nature and size of the water source;

(3) The physical and chemical nature of any impairment of the water source adversely affecting its availability or fitness for other water uses;

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

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

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

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

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

(9) The prior investments of any person in lands, and plans for the usage of water in connection with such lands which plans have been submitted to the director within a reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided,

however, that the granting of such permit shall not have unreasonably adverse effects upon other water uses in the area, including potential as well as present use; and

(10) The varying circumstances of each case."

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

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

(1) The director shall give due consideration to competing existing uses and applications for permits which would not involve interbasin transfers of surface water and, subject to

subsection (e) of this Code section, shall endeavor to allocate a reasonable supply of surface waters to such users and applicants; and

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

SECTION 3-3.

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

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

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

(2) The nature and size of the aquifer;

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

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

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

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

(7) The importance and necessity of the uses, including farm uses, claimed by permit applicants under this Code section, or of the water uses of the area under Code Section 12-5-95, and the extent of any injury or detriment caused or expected to be caused to other water uses, including public use;

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

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

(10) Any other relevant factors.

(e) ~~The division or a party designated by the division may develop a regional~~ Regional water development and conservation ~~plan~~ plans for the state´s major aquifers or any portion thereof shall be developed in accordance with Article 8 of this chapter. Such ~~plan~~ plans

shall include water development, conservation, and sustainable use and shall be based on detailed scientific analysis of the aquifer, the projected future condition of the aquifer, and current demand and estimated future demands on the aquifer, in accordance with Article 8 of this chapter. Such ~~plan~~ plans shall serve to promote the conservation and reuse of water within the state, guard against a shortage of water within the state and each region, and promote the efficient use of the water resource and shall be consistent with the general welfare and public interest of the state as provided in Code Section 12-5-91, in accordance with Article 8 of this chapter. Upon adoption of a regional plan, all permits issued by the division shall be consistent with such plan. The term of any permit and all provisions of any permit for which an application for renewal is made prior to the completion of any regional plan shall be extended at least until the completion of such plan. Applications for new permits shall be subject to review by the division, and the division may issue such permits as appropriate pending completion of a regional plan."

SECTION A.

Said chapter is further amended by adding new subsections in Code Section 12-5-522, relating to a policy statement for comprehensive state-wide water management planning, guiding principles, and requirements of plans, to read as follows:

"(c.1)(1) As used in this subsection, the term:

(A) 'Donor basin' means a river basin from which a withdrawal or diversion of water occurs in an interbasin transfer.

(B) 'Interbasin transfer' means a withdrawal or diversion of water from one river basin followed by use or return of some or all of that water to a different river basin.

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

(D) 'Raw water interbasin transfer' means an interbasin transfer of untreated water for treatment, use, and disposal in the receiving basin.

(E) 'Receiving basin' means a river basin to which all or a portion of water from another river basin is diverted and returned in an interbasin transfer.

(2) Any state-wide water plan shall provide that, subject to the provisions of this chapter, interbasin transfers may be permitted to meet water needs in areas facing limitations on their water resources, as indicated when the forecasted consumption of water from a specific source approaches the defined consumptive use assessment, as long as the transfer does not unreasonably foreclose opportunities for water use in the donor basin; provided, however, that raw water interbasin transfers shall not be permitted.

(3) Any state-wide water plan shall provide that interbasin transfers of water that occur in connection with mining, conveying, processing, sale, or shipment of minerals or other products transported for further processing or sale shall be exempt from limitations on interbasin transfers provided by this subsection.

(4) Any state-wide water plan shall provide that interbasin transfers of raw water shall not be permitted until consumptive use assessments have been completed for the affected water sources and water development and conservation plans which identify the need for such transfers have been completed for the affected water planning regions.

(5) Any state-wide water plan shall provide that, in evaluating a permit application for a new interbasin transfer, the director shall review and consider:

(A) Donor basin considerations, including but not limited to:

(i) The quantity of the proposed withdrawal and the stream flow of the donor basin, with special consideration for dry years and low-flow conditions;

(ii) The current and reasonably foreseeable future water needs of the donor basin, with special consideration for dry years and low-flow conditions;

(iii) Protection of water quality in the donor basin, with special consideration for dry years and low-flow conditions;

(iv) Any offsetting increases in flow in the donor basin that may be arranged through permit conditions;

(v) The number of downstream river miles from which water will be diverted as a result of the transfer; and

(vi) The connection between surface water and ground water in the donor basin, and the effect of the proposed transfer on either or both;

(B) Receiving basin considerations, including but not limited to:

(i) Determination of whether or not the applicant´s proposed use is reasonable, including consideration of whether the applicant has implemented water conservation practices and achieved reasonable water conservation goals;

(ii) Assessment of the waste-water treatment capacity of the receiving basin;

(iii) The supply of water presently available to the receiving basin as well as the estimates of overall current water demand and the reasonable foreseeable future water needs of the receiving basin;

(iv) The beneficial impact of any proposed transfer and the demonstrated capability of the applicant to effectively implement its responsibilities under the requested permit;

(v) The impact of the proposed transfer on water conservation;

(vi) The applicant´s efforts to explore all reasonable options for use of reclaimed water and recycling of available resources to meet the needs of the receiving basin; and

(vii) Assessment of the adequacy of treatment capacity and current water quality conditions; and

(C) Considerations affecting both basins, including but not limited to:

(i) The economic feasibility, cost effectiveness, and environmental effects of the proposed transfer in relation to alternative sources of water supply;

(ii) The cumulative effects of the current and proposed interbasin transfers in each basin;

(iii) The requirements of the state and federal agencies with authority related to water resources;

(iv) The availability of water for responding to emergencies, including but not limited to drought, in the donor basin and the receiving basin;

(v) The effects, whether beneficial or detrimental, on offstream and instream uses;

(vi) The quantity, quality, location, and timing of water returned to the donor basin, receiving basin, and basins downstream;

(vii) Effects on interstate water use;

(viii) The cumulative effect on the donor basin and the receiving basin of any water transfer or consumptive use that is authorized or forecasted; and

(ix) Such other factors as are reasonably necessary to carry out the purposes of this chapter.

(c.2)(1) Any state-wide water plan shall provide that, subject to the provisions of this chapter, intrabasin transfers may continue to be undertaken to meet such practical water needs as are necessary for a water provider to meet the reasonable needs of users within its service area. If a new intrabasin transfer is to cross the jurisdictional boundaries of more than four counties, it shall not be permitted until consumptive use assessments have been completed for the affected water sources and water development and conservation plans which identify the need for such transfers have been completed for the affected water planning regions.

(2) Any state-wide water plan shall provide that intrabasin transfers of water that occur in connection with mining, conveying, processing, sale, or shipment of minerals or other products transported for further processing or sale shall continue to be permitted.″

SECTION 3-4.

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

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

(e) The division shall make all water withdrawal permitting decisions in accordance with this chapter and the comprehensive state-wide water management plan that has been approved or enacted by the General Assembly as provided by this article, including, but not limited to, restrictions, if any, on diversion from or reduction of flows in other watercourses. Any political subdivision or local water authority that is not in compliance with the plan shall be ineligible for state grants or loans for water projects, except for those projects designed to bring such political subdivision or local water authority into compliance with the plan."

PART IV

SECTION 4-1.

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

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

SECTION 4-2.

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