

The House Committee on Rules offers the following substitute to SB 342:

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to  
2 additional powers and duties of the State Soil and Water Conservation Commission, so as  
3 to change certain provisions relating to additional powers and duties of the State Soil and  
4 Water Conservation Commission; to amend Chapter 5 of Title 12 of the Official Code of  
5 Georgia Annotated, relating to water resources, so as to change certain provisions relating  
6 to powers of the Environmental Protection Division with respect to federal acts and receipt  
7 and expenditure of federal and state appropriations; to provide for issuance of permits,  
8 certifications, and other documents relating to construction of new public water supply  
9 reservoirs by local government entities; to provide a short title; to extensively revise certain  
10 provisions relating to water supply; to confer certain powers and duties upon a Water Supply  
11 Division of the Georgia Environmental Facilities Authority; to change certain provisions  
12 relating to rules and regulations relative to water conservation plans; to change certain  
13 provisions relating to permits for withdrawal, diversion, or impoundment of surface waters  
14 generally and for farm use; to change certain provisions relating to permits to withdraw,  
15 obtaining, or use of ground water; to change certain provisions relating to a policy statement  
16 for comprehensive state-wide water management planning, guiding principles, and  
17 requirements of plans; to amend Code Section 48-8-3 of the Official Code of Georgia  
18 Annotated, relating to exemptions from state sales and use tax, so as to change the exemption  
19 from sales and use tax with respect to certain sales of certain energy efficient products for  
20 a limited period of time; to provide for an exemption with respect to certain sales of certain  
21 types of water efficient products for a limited period of time; to amend Chapter 23 of Title  
22 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental  
23 Facilities Authority and the Division of Energy Resources, so as to change certain provisions  
24 relating to definitions; to change certain provisions relating to purpose, powers, and duties  
25 of the authority; to change certain provisions relating to review of contracts and agreements  
26 by the Environmental Protection Division or the Georgia Land Conservation Council; to  
27 change certain provisions relating to limitations on issue of bonds; to provide for a Water  
28 Supply Division of the authority and its powers and duties; to provide for a Georgia

1 Reservoir Fund; to provide effective dates; to provide for applicability; to repeal conflicting  
2 laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **PART I**

5 **SECTION 1-1.**

6 This part shall be known and may be cited as the "Water Conservation and Drought Relief  
7 Act."

8 **SECTION 1-2.**

9 Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to additional powers  
10 and duties of the State Soil and Water Conservation Commission, is amended by revising  
11 paragraph (9) to read as follows:

12 "(9) To receive grants from any agency of the United States government or any agency  
13 of this state, and to make grants to districts, municipalities, or counties in this state, or  
14 other state agencies in order to ~~carry out the~~;

15 (A) Fund up to 20 percent of the cost of obtaining permits for and constructing  
16 improvements to any dam that was originally constructed or financially assisted by the  
17 Natural Resources Conservation Service, formerly known as the Soil Conservation  
18 Service, of the United States Department of Agriculture;

19 (B) Fund up to 40 percent of the cost of obtaining a permit under Section 404 of the  
20 federal Clean Water Act, 33 U.S.C. Section 1344, for the construction of any new  
21 public water supply reservoir. In awarding any grants under this subparagraph, the  
22 commission shall consider regional effects and water supply yield of the proposed  
23 reservoir, anticipated population growth, and local government funding commitment;

24 or

25 (C) Carry out other purposes of this article."

26 **SECTION 1-3.**

27 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,  
28 is amended by revising Code Section 12-5-32, relating to powers of the Environmental  
29 Protection Division with respect to federal acts and receipt and expenditure of federal and  
30 state appropriations, as follows:

1 "12-5-32.

2 The division shall be the water pollution control and surface-water resource management  
3 agency of the state for all purposes of any federal water pollution control act or any other  
4 federal act within the purview of this article and may:

5 (1) Take all necessary or appropriate action to obtain for the state the benefits of any  
6 federal act within the purview of this article;

7 (2) Apply for, receive, and use federal funds made available under any federal act within  
8 the purview of this article;

9 (3) Approve projects for which loans or grants under any federal act are made to any  
10 municipality, county, or agency of state government or to any private person or entity;

11 (4) Participate through its authorized representatives in proceedings under any federal  
12 act within the purview of this article and recommend measures for the reduction of water  
13 pollution originating within the state or proper management of the state's surface-water  
14 resources; and

15 (5) Receive and expend on behalf of the state all funds which are now or which may  
16 hereafter become available or allotted to the State of Georgia by virtue of any  
17 appropriation or act of Congress or regulation of the federal government, its agencies and  
18 instrumentalities, or by virtue of any appropriation by the General Assembly, for water  
19 quality control, management, and allocation of the state's surface-water resources within  
20 the purview of this article, or for any other purpose defined in this article to be  
21 administered by the division as provided in this article. The division is authorized to use  
22 so much of funds as may be appropriated by the General Assembly for the purpose of  
23 matching federal grants as may be necessary to secure such grants and derive full  
24 advantage to the state of benefits contemplated under the terms of such grants, and to  
25 comply with the terms of such grants.

26 This Code section shall not prohibit the State Soil and Water Conservation Commission  
27 from exercising its powers under paragraph (9) of Code Section 2-6-27."

28 **SECTION 1-4.**

29 Said chapter is further amended by adding a new Code section to read as follows:

30 "12-5-483.

31 (a) Upon request of any local government entity that desires to construct a new public  
32 water supply reservoir for which permits and certifications under Code Section 12-5-31 and  
33 Sections 401 and 404 of the federal Clean Water Act, 33 U.S.C. Sections 1341 and 1344,  
34 are required, the division shall make available in a single collection copies of all forms  
35 necessary for the purposes of making applications for such permits.

(b) The period for granting or denying a permit application provided by subparagraph (c)(1)(A) of Code Section 12-2-2 shall likewise apply to decisions to issue certifications for purposes of Section 401 of the federal Clean Water Act, 33 U.S.C. Section 1341, justifications of need, and minimum instream flow certifications for construction of a new public water supply reservoir by a local government entity; and such shall be issued simultaneously to a local government entity that is a qualified applicant.

(c) The division shall issue an affirmative variance from the requirements of Chapter 7 of this title, consistent with the exemption granted by paragraph (11) of Code Section 12-7-17, to a permittee within seven days after granting the permit and issuing the certifications and documents specified under subsection (b) of this Code section."

**PART II**  
**SECTION 2-1.**

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

3 ~~(1.1)~~ (1.1) 'County' means any county created under the Constitution or laws of this state.

4 (1.2) 'Director' means the director of the division.

5 (1.3) 'Division' means the Water Supply Division of the Georgia Environmental  
 6 Facilities Authority created by Code Section 50-23-26.

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

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

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

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

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

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

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

30 (9) 'Obligation' means any bond, revenue bond, note, lease, contract, evidence of  
 31 indebtedness, debt, or other obligation of the state or local governments which are  
 32 authorized to be issued under the Constitution or other laws of this state, including  
 33 refunding bonds.

34 (10) 'Project' means and includes the acquisition of real property for water reservoirs; the  
 35 construction and reconstruction or improvement of water reservoirs; the acquisition of  
 36 real or personal property surrounding water reservoirs or any interest in such property;  
 37 the acquisition of real or personal property or any interest therein for mitigation of any

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

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

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

28 12-5-472.

29 (a) ~~The department is authorized to acquire~~ division may acquire, design, construct, equip,  
 30 operate, maintain, expand, and improve a ~~'project,' as such term is defined in paragraph~~  
 31 ~~(10) of Code Section 12-5-471~~ project, in whole or in part, directly or under contract with  
 32 others, including each of the facilities described in ~~said~~ paragraph (10) of Code Section  
 33 12-5-471, for the purpose of promoting the use of the projects and the use of the industrial,  
 34 recreational, commercial, and natural resources of the State of Georgia for the public good  
 35 and general welfare; and, without limitation of the foregoing, the ~~department~~ division is  
 36 authorized, ~~with the approval of the State Properties Commission~~, to acquire land for such

1 purposes; provided, however, that the ~~department~~ division shall not engage in competition  
 2 for customers for its environmental services with any local government offering or  
 3 providing similar services.

4 (b)(1) Any project acquired, designed, constructed, equipped, operated, maintained,  
 5 expanded, or improved by the ~~department~~ division or which is funded by ~~the Georgia~~  
 6 ~~Environmental Facilities Authority~~ in whole or in part by the division shall conform to  
 7 and meet standards and procedures promulgated by the Board of Natural Resources  
 8 pursuant to specific statutory authorization and direction for watershed and wetlands  
 9 protection.

10 (2) No such project shall include an electrical generation facility unless such facility does  
 11 not cause the consumption of water from such reservoir for the generation of such power.

12 (3) The local government or the division shall acquire sufficient land surrounding any  
 13 reservoir funded in whole or in part by the division or acquired or constructed by the  
 14 division to protect such reservoir, to provide for future expansion of such reservoir, and  
 15 to provide passive recreational opportunities on and around such reservoir. No  
 16 development shall be permitted on any such reservoir or its surrounding lands so acquired  
 17 other than public development appropriate for such passive uses. The acquisition of such  
 18 lands shall be a cost of project for purposes of this article, and the division, the authority,  
 19 and the local government may utilize any funds available to them for such purposes.

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

28 (5) All uses of any reservoirs funded by the division in whole or in part or acquired or  
 29 constructed by the division and any surrounding lands acquired by the division or local  
 30 government or transferred to the state shall be subordinate to the use of such reservoirs  
 31 for water supply purposes.

32 (6) No motorized vessels other than those being operated by electric motors shall be  
 33 allowed on any reservoirs funded by the division in whole or in part or acquired or  
 34 constructed by the division. As used in this paragraph, the term 'vessel' has the meaning  
 35 provided by Code Section 52-7-3.

36 ~~(c) As a condition precedent to the acquisition or construction of any project, the~~  
 37 ~~department 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 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 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 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 to the department 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.~~

(c) 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 a progress report 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.

1 (d) The division may take all reasonable and practicable steps, in consultation with the  
2 Environmental Protection Division of the department, the Department of Transportation,  
3 and other appropriate state agencies, to create a wetlands mitigation bank or banks and a  
4 stream mitigation bank or banks for the purpose of facilitating the construction of projects.  
5 Costs and expenses of such bank or banks shall constitute costs of projects and shall be  
6 allocated to projects when appropriate.

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

10 12-5-472.1.

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

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

32 (c) The division shall be designated as the principal state agency to cooperate with the  
33 Environmental Protection Division of the department, the United States Army Corps of  
34 Engineers, and all other federal agencies or instrumentalities in the planning and execution  
35 of projects in this state.

1 12-5-473.

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

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

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

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

19 (4) To make and execute contracts, lease agreements, and all other instruments necessary  
20 to exercise the powers of the ~~department~~ division to further the public purpose for which  
21 this article was enacted, such contracts, leases, or instruments to include contracts for  
22 construction, operation, management, or maintenance of projects and facilities owned by  
23 a local government or by the state or any state authority; and any and all local  
24 governments and departments, institutions, authorities, or agencies of the state ~~are~~  
25 ~~authorized to~~ may enter into contracts, leases, agreements, or other instruments with the  
26 ~~department~~ division upon such terms and to transfer real and personal property to the  
27 state for the use of the ~~department~~ division for such consideration and for such purposes  
28 as they deem advisable;

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

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

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

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

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

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

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

22 12-5-474.

23 (a) ~~The department is authorized to~~ division may fix rentals, fees, prices, and other charges  
24 which any user, concessionaire, franchisee, or vendor shall pay to the ~~department~~ division  
25 for the use of a project or part thereof or combination thereof, and for the goods and  
26 services provided by the ~~department~~ division in conjunction with such use, as the  
27 ~~department~~ division may deem necessary or appropriate to provide in connection with such  
28 use, and to charge and collect the same. Such rentals, fees, prices, and other charges shall  
29 be so fixed and adjusted in respect to the aggregate thereof from a project or any part  
30 thereof so as to be reasonably expected to provide a fund sufficient with other revenues of  
31 such project and funds available to the ~~department~~ division, if any, to pay the cost of  
32 maintaining, repairing, and operating a project, including the reserves for extraordinary  
33 repairs and insurance, unless such cost shall be otherwise provided for, which costs shall  
34 be deemed to include the expenses incurred by the ~~department~~ division on account of a  
35 project for water, light, sewer, and other services furnished by other facilities at such

1 project. Such fees shall be fixed after consideration of input from local governments served  
2 by the project to which the fees pertain.

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

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

18 12-5-475.

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

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

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

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

32 (b) It shall be the duty of the ~~Board of Natural Resources~~ authority to prescribe rules and  
33 regulations for the operation of and governing the use of each project constructed under the  
34 provisions of this article. Such rules shall be prescribed after consideration of input from  
35 local governments served or to be served by the project to which the rules pertain. ~~The~~  
36 ~~initial plan for the activities for each project, other than for water supply, shall be approved~~

1 ~~by the Project Site Control Advisory Council. Any subsequent change in the initial plan~~  
 2 ~~shall be subject to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative~~  
 3 ~~Procedure Act.'~~

4 12-5-476.

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

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

24 (c) If, in order to accomplish the objectives of this article, it is advisable, in the judgment  
 25 of the director and the authority, to construct a project that is larger than one which a local  
 26 government proposes to construct, the division may participate by agreement with such  
 27 local government in planning, designing, constructing, operating, and maintaining such  
 28 project and, in so participating, shall finance those costs of the project allocated to the state  
 29 and such other and further costs as may be agreed upon between the parties, such that the  
 30 project shall accomplish the maximum water development objectives at a minimum total  
 31 expenditure.

32 (d) The division shall coordinate with the Environmental Protection Division of the  
 33 department and local governments for the purpose of producing appropriate and necessary  
 34 needs analyses for projects. In the event that the director, with the approval of the  
 35 authority, determines that construction of a project is in the best interests of the people of  
 36 this state but any affected county or municipality is willing but unable to engage in an

1 appropriate needs analysis, the division may conduct such analysis for and on behalf of  
 2 such county or municipality, and such analysis shall be the needs analysis of such county  
 3 or municipality with respect to such project for all purposes. Such needs analysis shall be  
 4 consistent with water demand projections provided by an applicable regional water  
 5 development and conservation plan developed pursuant to Article 8 of this chapter, if  
 6 available.

7 12-5-476.1.

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

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

29 12-5-477.

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

1 12-5-478.

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

4 12-5-479.

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

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

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

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

30 (e) ~~The department shall establish prior to the commencement of each project a Project~~  
31 ~~Water Users Advisory Council and a Project Site Control Advisory Council. The~~  
32 ~~membership of the Project Water Users Advisory Council shall include the chief executive~~  
33 ~~officers, or their designees, of each local government purchasing water from the project.~~  
34 ~~The membership of the Project Site Control Advisory Council shall include the chief~~  
35 ~~executive officers, or their designees, of each local government within which any part of~~  
36 ~~the project is located. The commissioner, or his designee, shall serve as an ex officio~~

1 ~~member of each advisory council. Each advisory council formed shall meet from time to~~  
 2 ~~time as provided by rule and regulation of the Board of Natural Resources and shall elect~~  
 3 ~~its own officers and establish such bylaws as its membership may deem appropriate for the~~  
 4 ~~conduct of its business. Each Project Water Users Advisory Council shall consult with and~~  
 5 ~~advise the department concerning the operation and management of the project for which~~  
 6 ~~it was formed. The operation and management of a project shall be subject to the review~~  
 7 ~~of the Project Site Control Advisory Council formed for such project. Reserved.~~

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

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

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

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

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

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

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

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

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

34 12-5-480.

35 The ~~department~~ division shall be authorized to utilize the financial advisory and  
 36 construction related services of the Georgia State Financing and Investment Commission

1 with respect to the acquisition, design, planning, and construction of any of the projects.  
 2 ~~Chapter 22 of Title 50 Code Section 50-22-9~~ shall be applicable to the selection of persons  
 3 to provide professional services for any project or any portion thereof authorized by this  
 4 article until such time as the director, with the approval of the authority and consistent with  
 5 any state-wide water plan provided pursuant to Article 8 of this chapter, certifies that this  
 6 state and its local governments have constructed or otherwise acquired sufficient reservoir  
 7 capacity to meet current and reasonably projected future needs, taking into account  
 8 projected population growth and historical and anticipated cycles or incidents of drought,  
 9 whereupon the whole of Chapter 22 of Title 50 shall be applicable.

10 12-5-481.

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

18 12-5-482.

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

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

31 12-5-483.

32 Any waiver by the division or the department of any costs or fees owed by any local  
 33 government to the division or the department under this article shall constitute a grant in

1 the amount of such waiver to such local government pursuant to Code Section 50-23-6 or  
 2 Article VII, Section III, Paragraph II of the Constitution.

3 12-5-484.

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

### 13 SECTION 2-2.

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

17 "(12) 'Project' means:

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

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



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

3 (31.2) For the purpose of supplementing and extending the ability of the authority to  
 4 expedite and accommodate the construction of projects, to enter into arrangements,  
 5 consistent with existing bond indenture and other obligations of the authority, whereby  
 6 the authority agrees to enter into one or more notes with a financial institution or other  
 7 lender, the proceeds of which shall be payable to the authority and which constitute an  
 8 obligation of the authority, together with a companion note or notes on substantially the  
 9 same terms payable from the authority to a local government, with such companion notes,  
 10 and the obligation of repayment thereon, pledged as security for the repayment of such  
 11 notes, on such terms as may be agreeable to the parties thereto; and"

#### 12 SECTION 2-4.

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

16 "50-23-9.

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

25 (b) The authority shall not enter into any contract or agreement with any local government  
 26 or the Department of Natural Resources with respect to the financing, by loan or grant, of  
 27 any community land conservation project or state land conservation project pursuant to  
 28 Chapter 22 of Title 36 unless the Georgia Land Conservation Council has approved the  
 29 community land conservation project or state land conservation project and the chairperson  
 30 has directed the authority to execute the approval decision of the Georgia Land  
 31 Conservation Council. Nothing in this article shall be construed to diminish the full  
 32 authority and responsibility of the Georgia Land Conservation Council's existing statutory  
 33 reviews and approvals."



- 1 (1) Administer this part;
- 2 (2) Coordinate with the Department of Natural Resources and with other departments,  
3 divisions, agencies, or officials of this state or political subdivisions thereof and  
4 appropriate private and professional organizations in matters related to water supply. The  
5 division and any other department, educational institution, agency, or official of this state  
6 or political subdivision thereof which in any way would affect the administration or  
7 enforcement of this part or Article 6 of Chapter 5 of Title 12 shall be required to  
8 coordinate all such activities with the division to assure orderly and efficient  
9 administration and enforcement of this part;
- 10 (3) Do all things necessary to cooperate with the United States government and qualify  
11 for, accept, and disburse any public or private grant intended for the administration of this  
12 part;
- 13 (4) Apply for, receive, accept, and administer federal funds and programs made available  
14 to this state for the purposes of this part;
- 15 (5) Contract for services if such services cannot be satisfactorily performed by  
16 employees of the division or by any other state agency;
- 17 (6) Design and implement programs to assist local governing authorities and other  
18 entities in implementing water supply projects; and
- 19 (7) Exercise such powers and perform such duties as assigned or contracted to the  
20 division or the authority under Article 6 of Chapter 5 of Title 12.

21 50-23-28.

- 22 (a) There shall be established the Georgia Reservoir Fund, to consist of proceeds of bonds  
23 issued under this article for purposes of this part, any moneys paid to the authority under  
24 intergovernmental contracts for purposes of this part, voluntary contributions to such fund,  
25 and any federal moneys deposited in such fund. Moneys which are restricted as to their  
26 usage, including, but not limited to, restrictions on the kinds of projects for which the  
27 moneys may be expended or loaned, on the entity that may receive grants or loans of such  
28 moneys, on the manner in which such moneys may be expended or loaned, and any other  
29 condition, limitation, or restriction, may nevertheless be deposited in the fund so long as  
30 any such restriction shall not prevent the moneys so deposited from being expended,  
31 loaned, or otherwise used in a manner that is consistent with the purposes of this part. All  
32 balances in the fund shall be deposited in interest-bearing accounts.
- 33 (b) The authority shall administer the fund and may use the fund for projects as defined  
34 by Code Section 12-5-471, in accordance with this article and Article 6 of Chapter 5 of  
35 Title 12.

1 (c) The authority shall prepare, by September 30 of each year, an accounting of the  
 2 moneys received and expended from the fund for the most recently completed fiscal year.  
 3 The report shall be made available electronically to the members of the General Assembly  
 4 and shall be public record.

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

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

13 50-23-29.

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

### 16 PART III

#### 17 SECTION 3-1.

18 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
 19 state sales and use tax, is amended by revising paragraph (82) as follows:

20 "(82)(A) Purchase of energy efficient products or water efficient products with a sales  
 21 price of \$1,500.00 or less per product purchased for noncommercial home or personal  
 22 use. The exemption provided by this paragraph shall apply only to sales occurring  
 23 during a period commencing at 12:01 A.M. on ~~October 4, 2007~~ October 2, 2008, and  
 24 concluding at 12:00 Midnight on ~~October 7, 2007~~ October 5, 2008.

25 (B) ~~For the purposes of this exemption, an energy efficient product is~~ As used in this  
 26 paragraph, the term:

27 (i) 'Energy efficient product' means any energy efficient product for noncommercial  
 28 home or personal use consisting of any dishwasher, clothes washer, air conditioner,  
 29 ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat,  
 30 refrigerator, door, or window, ~~the energy efficiency of which has been designated by~~  
 31 the United States Environmental Protection Agency and the United States Department  
 32 of Energy as meeting or exceeding each such agency's energy saving efficiency  
 33 requirements or which have been designated as meeting or exceeding such  
 34 requirements under each such agency's Energy Star program.

1 (ii) 'Water efficient product' means any product used for the conservation or efficient  
 2 use of water which has been designated by the United States Environmental  
 3 Protection Agency as meeting or exceeding such agency's water saving efficiency  
 4 requirements or which has been designated as meeting or exceeding such  
 5 requirements under such agency's Water Sense program.

6 (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply  
 7 to purchases of energy efficient products or water efficient products purchased for  
 8 trade, business, or resale.

9 ~~(D) Reserved.~~

10 ~~(E)~~(D) The commissioner shall promulgate any rules and regulations necessary to  
 11 implement and administer this paragraph;"

## 12 PART IV

### 13 SECTION 4-1.

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

17 "12-5-4.

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

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

### 30 SECTION 4-2.

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

34 "(e) Subject to subsection (g) of this Code section, the Board of Natural Resources shall  
 35 by rule or regulation establish a reasonable system of classification for application in

1 situations involving competing uses, existing or proposed, for a supply of available surface  
 2 waters. Such classifications shall be based upon but not necessarily limited to the following  
 3 factors:

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

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

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

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

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

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

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

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

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

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

25 "(h) Except for applications filed pursuant to paragraph (3) of subsection (a) of this Code  
 26 section, permits may be granted for any period of time not less than ten years, unless the  
 27 applicant requests a shorter period of time, nor more than 50 years. The director may base  
 28 the duration of such permits on any reasonable system of classification based upon but not  
 29 necessarily limited to such factors as source of supply and type of use. In evaluating any  
 30 application for a permit for the use of water ~~for a period of 25 years or more~~, the director  
 31 shall evaluate the condition of the water supply to assure that the supply is adequate to  
 32 meet the multiple needs of the citizens of the state as can reasonably be projected for the  
 33 term of the permit and ensure that the issuance of such permit is based upon a water  
 34 development and conservation ~~plan~~ plans for the applicant ~~or~~ and for the region in  
 35 accordance with Article 8 of this chapter. Such water development and conservation ~~plan~~  
 36 plans for the applicant ~~or~~ and for the region shall promote the conservation and reuse of  
 37 water within the state, guard against a shortage of water within the state, promote the

1 efficient use of the water resource, and be consistent with the public welfare of the state,  
 2 in accordance with Article 8 of this chapter. The board shall promulgate regulations for  
 3 implementation of this subsection, including provisions for review of such permits  
 4 periodically or upon a substantial reduction in average annual volume of the water resource  
 5 which adversely affects water supplies to determine that the permittee continues in  
 6 compliance with the conditions of the permit and that the plan continues to meet the overall  
 7 supply requirements for the term of the permit. ~~In the event the director determines that a~~  
 8 ~~regional plan is required in connection with any application for a permit for the use of~~  
 9 ~~water for a period of 25 years or more, the division or a person or entity designated by the~~  
 10 ~~division may develop such a plan. Regional water plans shall be developed in accordance~~  
 11 with Article 8 of this chapter. Such regional ~~plan~~ plans shall include water development,  
 12 conservation, and sustainable use and shall be based upon detailed scientific analysis of the  
 13 water source, the projected future condition of the resource, current demand, and estimated  
 14 future demands on the resource, in accordance with Article 8 of this chapter."

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

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

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

### 30 SECTION 4-3.

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

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

- 1 (1) The number of persons using an aquifer and the object, extent, and necessity of their  
 2 respective withdrawals or uses;
- 3 (2) The nature and size of the aquifer;
- 4 (3) The physical and chemical nature of any impairment of the aquifer adversely  
 5 affecting its availability or fitness for other water uses, including public use;
- 6 (4) The probable severity and duration of such impairment under foreseeable conditions;
- 7 (5) The injury to public health, safety, or welfare which would result if such impairment  
 8 were not prevented or abated;
- 9 (6) The kinds of businesses or activities to which the various uses are related;
- 10 (7) The importance and necessity of the uses, including farm uses, claimed by permit  
 11 applicants under this Code section, or of the water uses of the area under Code  
 12 Section 12-5-95, and the extent of any injury or detriment caused or expected to be  
 13 caused to other water uses, including public use;
- 14 (8) Diversion from or reduction of flows in other watercourses or aquifers; in accordance  
 15 with Article 8 of this chapter or any state-wide water plan provided pursuant thereto; and  
 16 ~~(9) A regional water development conservation and sustainable use plan, where~~  
 17 ~~applicable; and~~
- 18 ~~(10)~~(9) Any other relevant factors.
- 19 (e) ~~The division or a party designated by the division may develop a regional~~ Regional  
 20 water development and conservation plan plans for the state's major aquifers or any portion  
 21 thereof shall be developed in accordance with Article 8 of this chapter. Such plan plans  
 22 shall include water development, conservation, and sustainable use and shall be based on  
 23 detailed scientific analysis of the aquifer, the projected future condition of the aquifer, and  
 24 current demand and estimated future demands on the aquifer, in accordance with Article 8  
 25 of this chapter. Such plan plans shall serve to promote the conservation and reuse of water  
 26 within the state, guard against a shortage of water within the state and each region, and  
 27 promote the efficient use of the water resource and shall be consistent with the general  
 28 welfare and public interest of the state as provided in Code Section 12-5-91, in accordance  
 29 with Article 8 of this chapter. Upon adoption of a regional plan, all permits issued by the  
 30 division shall be consistent with such plan. The term of any permit and all provisions of  
 31 any permit for which an application for renewal is made prior to the completion of any  
 32 regional plan shall be extended at least until the completion of such plan. Applications for  
 33 new permits shall be subject to review by the division, and the division may issue such  
 34 permits as appropriate pending completion of a regional plan."

