

Senate Bill 370

By: Senators Tolleson of the 20th, Bulloch of the 11th, Cowser of the 46th, Hooks of the 14th, Weber of the 40th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To enact and revise provisions of law relating to water supply and water conservation; to
 2 state legislative findings; to amend Chapter 5 of Title 12 of the Official Code of Georgia
 3 Annotated, relating to water resources, so as to require the Georgia Department of Natural
 4 Resources, including its Environmental Protection Division, the Georgia Environmental
 5 Facilities Authority, the Georgia Department of Community Affairs, the Georgia Forestry
 6 Commission, the Georgia Department of Community Health, including its Division of Public
 7 Health, the Georgia Department of Agriculture, and the Georgia Soil and Water Conservation
 8 Commission to examine their practices, programs, policies, rules, and regulations in order
 9 to develop programs and incentives for voluntary water conservation and to make regular
 10 reports of measurable progress to the Governor, Lieutenant Governor, Speaker of the House,
 11 and General Assembly; to require the establishment of best management practices by public
 12 water systems; to change provisions relating to state and local watering restrictions; to
 13 provide for the classification and continuation or discontinuation of certain farm use water
 14 withdrawal permits; to provide for measuring and separate charging of water to units in
 15 certain new construction; to amend Article 1 of Chapter 2 of Title 8 of the Official Code of
 16 Georgia Annotated, relating to buildings in general, so as to require high-efficiency toilets,
 17 shower heads, and faucets; to require high-efficiency cooling towers; to create the Joint
 18 Committee on Water Supply; to provide for related matters; to provide for an effective date;
 19 to repeal conflicting laws; and for other purposes.

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

21 **SECTION 1.**

22 The General Assembly recognizes the imminent need to create a culture of water
 23 conservation in the State of Georgia. The General Assembly also recognizes the imminent
 24 need to plan for water supply enhancement during future extreme drought conditions and
 25 other water emergencies. In order to achieve these goals, the General Assembly directs the
 26 Georgia Department of Natural Resources to coordinate with its Environmental Protection

27 Division, the Georgia Environmental Facilities Authority, the Georgia Department of
 28 Community Affairs, the Georgia Forestry Commission, the Georgia Department of
 29 Community Health, including its Division of Public Health, the Georgia Department of
 30 Agriculture, and the Georgia Soil and Water Conservation Commission to work together as
 31 appropriate to develop programs for water conservation and water supply.

32 SECTION 2.

33 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
 34 is amended by inserting in lieu of reserved Code Section 12-5-4 a new Code Section 12-5-4
 35 to read as follows:

36 "12-5-4.

37 (a) As used in this Code section, the term 'agency' or 'agencies' means the Georgia
 38 Department of Natural Resources, including its Environmental Protection Division, the
 39 Georgia Environmental Facilities Authority, the Georgia Department of Community
 40 Affairs, the Georgia Forestry Commission, the Georgia Department of Community Health,
 41 including its Division of Public Health, the Georgia Department of Agriculture, and the
 42 Georgia Soil and Water Conservation Commission individually or collectively as the text
 43 requires.

44 (b) On or before August 1, 2010, the agencies shall examine their practices, programs,
 45 policies, rules, and regulations to identify opportunities to provide enhanced programming
 46 and incentives for voluntary water conservation. The agencies shall, without limitation,
 47 identify and provide for rules, regulations, incentives, or opportunities to:

48 (1) Include water conservation measures in the comprehensive plans submitted to the
 49 Department of Community Affairs by local governments;

50 (2) Provide technical assistance to local governments and public water systems for water
 51 loss abatement activities;

52 (3) Support state-wide water campaigns and public outreach programs, such as Conserve
 53 Georgia and WaterFirst programs;

54 (4) Encourage residential and commercial retrofits for water efficient fixtures and
 55 equipment;

56 (5) Encourage residential and commercial retrofits for water efficient landscaping
 57 irrigation systems;

58 (6) Encourage the installation of landscapes in commercial and residential settings
 59 utilizing landscape best management practices that include soil preparation, plant
 60 selection, and water use efficiency;

61 (7) Encourage the use of rain water and gray water, where appropriate, in lieu of potable
 62 water;

- 63 (8) Encourage the installation of submeters on existing nonsubmetered multifamily
64 complexes and multiunit commercial and industrial complexes;
- 65 (9) Encourage public water systems to develop and improve water loss abatement
66 programs;
- 67 (10) Encourage public water systems to implement the industry's best management
68 practices for controlling water loss and achieve the recommended standards;
- 69 (11) Provide incentives for residential and commercial water conservation pricing by
70 public water systems;
- 71 (12) Provide incentives for public water systems to use full cost accounting;
- 72 (13) Encourage voluntary inclusion of water conservation guidelines in applications for
73 new ground-water withdrawal permits and surface-water withdrawal permits; and
- 74 (14) Examine the effect that water conservation has on water rates and consider policies
75 to mitigate the financial impact that rate increases or reductions in water use have on
76 water utilities and water users.
- 77 (c) On or before August 1, 2010, the agencies shall examine their practices, programs,
78 policies, rules, and regulations to identify opportunities to enhance the state's water supply.
79 The agencies shall, without limitation, identify opportunities to:
- 80 (1) Obtain funding; and
- 81 (2) Conduct feasibility studies on reservoir dredging and water management measures
82 that could enhance water supply when funding is available.
- 83 (d) Each agency shall coordinate with the Department of Natural Resources to:
- 84 (1) Establish administrative programs and procedures to encourage water conservation
85 and to enhance the state's water supply consistent with the results of the reviews required
86 under subsections (b) and (c) of this Code section;
- 87 (2) Submit an interim report of the reviews required under subsections (b) and (c) of this
88 Code section to the Governor, Lieutenant Governor, and Speaker of the House on or
89 before July 1, 2010, which shall include, at a minimum, the programmatic changes and
90 proposed changes being implemented to encourage water conservation and to enhance
91 the state's water supply;
- 92 (3) Submit a final report of the review required under subsections (b) and (c) of this
93 Code section to the General Assembly by August 1, 2010, which report shall include at
94 a minimum an outline and narrative summary of the rules, regulations, and policies that
95 have been adopted to encourage water conservation and to enhance the state's water
96 supply; and
- 97 (4) Submit a report to the General Assembly on or before January 1 of 2011, 2012, 2013,
98 2014, and 2015 including an outline and narrative summary of the the programmatic
99 changes encouraging water conservation and to enhance the state's water supply that were

100 implemented during the immediately preceding calendar year, outlining the agency's
 101 goals for the next calendar year, and identifying the rules, regulations, and policies that
 102 were adopted to support those programmatic changes."

103 **SECTION 3.**

104 Said chapter is further amended by adding a new Code Section 12-5-4.1, to read as follows:

105 "12-5-4.1.

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

107 (1) 'Division' means the Environmental Protection Division of the Department of Natural
 108 Resources.

109 (2) 'Public water system' means a system for the provision to the public of piped water
 110 for human consumption, if such system regularly serves at least 3,300 individuals. Such
 111 term includes but is not limited to any collection, treatment, storage, and distribution
 112 facilities under the control of the operator of such system and used primarily in
 113 connection with such system and any collection or pretreatment storage facilities not
 114 under such control which are used primarily in connection with such system.

115 (b) The Board of Natural Resources shall by January 1, 2011, adopt rules for the
 116 minimum standards and best practices for monitoring and improving the efficiency and
 117 effectiveness of water use by public water systems to improve water conservation. The
 118 best practices program shall include without limitation:

119 (1) The establishment of an infrastructure leakage index;

120 (2) The establishment of categories of public water systems based on geographical size
 121 and service population;

122 (3) A phased-in approach requiring public water systems to conduct standardized annual
 123 water loss audits according to the International Water Association water audit
 124 method/standard and to submit those audits to the division;

125 (4) A phased-in approach requiring public water systems to implement water loss
 126 detection programs; and

127 (5) The development of a technical assistance program to provide guidance to public
 128 water systems for water loss detection programs, to include without limitation metering
 129 techniques, utilization of portable and permanent water loss detection devices, and
 130 funding when available.

131 By January 1, 2012, public water systems serving at least 10,000 individuals shall have
 132 conducted a water loss audit pursuant to the minimum standards and best practices adopted
 133 by the Board of Natural Resources. By January 1, 2013, all other public water systems
 134 shall have conducted a water loss audit pursuant to the minimum standards and best
 135 practices adopted by the Board of Natural Resources. Audit results shall be submitted to

136 the division within 60 days of completion and shall be posted on the division's website in
137 a timely manner after receipt by the division."

138 **SECTION 4.**

139 Said chapter is further amended by revising Code Section 12-5-7, relating to local variances
140 from state restrictions on outdoor watering, as follows:

141 "12-5-7.

142 (a)(1) Any political subdivision of this state or local government authority may, upon
143 application to and approval by the director of the Environmental Protection Division of
144 the department for good cause shown, impose more stringent restrictions on outdoor
145 water use during nondrought periods or state declared periods of drought than those
146 applicable restrictions, if any, imposed by the state during such periods. For purposes of
147 this subsection, 'good cause' means evidence sufficient to support a reasonable
148 conclusion, considering available relevant information, that such additional restrictions
149 are necessary and appropriate to avoid or relieve a local water shortage. A variance
150 granted pursuant to this subsection shall be valid for such period as determined by the
151 director.

152 (2) Paragraph (1) of this subsection shall not prohibit a political subdivision or local
153 government authority from imposing more stringent restrictions on outdoor water use in
154 case of an emergency which immediately threatens the public health, safety, or welfare;
155 provided, however, that such emergency restrictions shall be valid for a period not
156 exceeding seven days unless a variance is granted by the director pursuant to
157 paragraph (1) of this subsection. If the director determines that a political subdivision or
158 local government authority is exercising emergency powers granted by this paragraph in
159 a manner to circumvent the necessity of obtaining such a variance, he or she may suspend
160 the emergency powers granted by this paragraph to such political subdivision or local
161 government authority.

162 (3) In the event that a political subdivision of this state or local government authority is
163 unable to satisfy reduced water consumption or other permit requirements under its water
164 withdrawal or operating permit due to its inability under this subsection to impose more
165 stringent restrictions on outdoor water use during periods of drought than those applicable
166 restrictions, if any, imposed by the state, such political subdivision or local government
167 authority shall be exempt from fines, sanctions, or other penalties applicable for such
168 failure upon the approval of the director of the Environmental Protection Division of the
169 department. The director shall consider all measures implemented by such political
170 subdivision or local government authority prior to issuing fines, sanctions, or other
171 penalties applicable, if any, for such failure. The political subdivision or local

172 government authority shall notify the director of the Environmental Protection Division
 173 of the department within ten business days following the discovery of such failure. The
 174 director may request additional information at any time to substantiate such a claim.

175 (4) The director of the Environmental Protection Division may revoke, suspend, or
 176 modify, upon not less than three days' written notice, a political subdivision's or local
 177 government authority's water withdrawal or waste treatment permit issued pursuant to
 178 this chapter consistent with the health, safety, and welfare of the citizens of this state for
 179 violation of paragraph (1) or (2) of this subsection or any variance granted pursuant
 180 thereto.

181 (a.1)(1) Persons may irrigate outdoors daily for purposes of planting, growing,
 182 managing, or maintaining ground cover, trees, shrubs, or other plants only between the
 183 hours of 4 P.M. and 10:00 A.M.

184 (2) Paragraph (1) of this subsection shall not create any limitation upon the following
 185 outdoor water uses:

186 (A) Commercial agricultural operations as defined in Code Section 1-3-3;

187 (B) Capture and reuse of cooling system condensate or storm water in compliance with
 188 applicable local ordinances and state guidelines;

189 (C) Reuse of gray water in compliance with Code Section 31-3-5.2 and applicable local
 190 board of health regulations adopted pursuant thereto;

191 (D) Use of reclaimed waste water by a designated user from a system permitted by the
 192 Environmental Protection Division of the department to provide reclaimed waste water;

193 (E) Irrigation of personal food gardens;

194 (F) Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or
 195 sports turf fields during installation and for a period of 30 days immediately following
 196 the date of installation;

197 (G) Drip irrigation or irrigation using soaker hoses;

198 (H) Handwatering with a hose with automatic cutoff or handheld container;

199 (I) Use of water withdrawn from private water wells or surface water by an owner or
 200 operator of property if such well or surface water is on said property;

201 (J) Irrigation of horticultural crops held for sale, resale, or installation;

202 (K) Irrigation of athletic fields, golf courses, or public turf grass recreational areas;

203 (L) Installation, maintenance, or calibration of irrigation systems; or

204 (M) Hydroseeding.

205 (3) Governing authorities of counties and municipalities shall adopt the provisions of
 206 paragraphs (1) and (2) of this subsection by ordinance, to become effective not later than
 207 January 1, 2011, and violations of such adopted provisions shall be punished as ordinance
 208 violations.

209 (b) Any political subdivision of this state or local government authority may apply for and,
 210 upon approval by the director of the Environmental Protection Division of the department
 211 for good cause shown, shall be granted an exemption from nonstatutory outdoor watering
 212 restrictions or water use reductions imposed by the state. For purposes of this subsection,
 213 'good cause' means evidence sufficient to support a reasonable conclusion, considering
 214 available relevant information, that such restrictions, reductions, or both are not necessary
 215 and appropriate to avoid or relieve a local water shortage. A variance granted pursuant to
 216 this subsection shall be valid for such period as determined by the director.

217 (c) The director shall render a decision on an application made by a political subdivision
 218 or local government authority under subsection (a) or (b) of this Code section within five
 219 business days after receipt thereof.

220 ~~(d) This Code section shall stand repealed and reserved on July 1, 2010.~~

221 (d)(1) Any permittee who is aggrieved or adversely affected by any order or action of the
 222 director of the Environmental Protection Division pursuant to this Code section shall have
 223 a right to a hearing pursuant to the provisions of Code Section 12-2-2.

224 (2) Notwithstanding the stay provisions of subparagraph (c)(2)(B) of Code Section
 225 12-2-2, the filing of a petition for a hearing before an administrative law judge from an
 226 action taken pursuant to this Code section stays the order of the director of the
 227 Environmental Protection Division for not more than five days and such stay shall
 228 automatically be lifted without further action by the director if the petition has not been
 229 ruled upon by the end of the fifth day following filing of the petition; provided, however,
 230 that the petitioner's right to a hearing remains in full force and effect."

231 **SECTION 5.**

232 Said chapter is further amended in Code Section 12-5-31, relating to permits for withdrawal,
 233 diversion, or impoundment of surface waters, by adding a new subsection to read as follows:

234 "(p) In addition to the other provisions of this Code section, there shall be established three
 235 categories of farm use surface water withdrawal permits: active, inactive, and unused. The
 236 rules and regulations implementing this subsection shall provide without limitation for the
 237 following:

238 (1) An active farm use surface water withdrawal permit means one that has been acted
 239 upon and used for allowable purposes;

240 (2) An inactive farm use surface water withdrawal permit means one where the permit
 241 holder has requested inactive status in order to retain ownership of the permit for possible
 242 future use or reuse. Inactive permits shall be retained by the permit holder without
 243 modification;

244 (3) An unused farm use surface water withdrawal permit means one that has never been
 245 used for allowable purposes. Unused permits expire after two years unless changed to
 246 active or inactive status by notification to the director. Unused permits shall not be
 247 transferred or assigned to subsequent owners of the lands as provided in paragraph (3) of
 248 subsection (a) of this Code section;

249 (4) An inactive farm use surface water withdrawal permit shall be reclassified to an
 250 active permit when the permit holder has given the director 60 days' written notice and
 251 paid any applicable fees in accordance with paragraph (3) of subsection (a) of this Code
 252 section; and

253 (5) The director shall, via certified mail, return receipt requested, contact, or cause to be
 254 contacted, any person who holds a permit that the director has determined is unused. The
 255 notification shall include the permit identification and information regarding the
 256 classifications and procedures for changing classifications. The permit holder shall have
 257 120 days to respond after which the director shall issue a second notice via certified mail,
 258 return receipt requested. Two years after the date on which the director first notified the
 259 permit holder via certified mail, return receipt requested, of the unused status
 260 determination of the permit, the director shall revoke the permit if the permit holder has
 261 not requested that the unused permit be reclassified as inactive or active."

262 **SECTION 6 .**

263 Said chapter is further amended in Code Section 12-5-105, relating to permits for use of
 264 ground waters, by adding a new subsection to read as follows:

265 "(d) In addition to the other provisions of this Code section, there shall be established three
 266 categories of farm use ground-water withdrawal permits: active, inactive, and unused. The
 267 rules and regulations implementing this subsection shall provide without limitation for the
 268 following:

269 (1) An active farm use ground-water withdrawal permit means one that has been acted
 270 upon and used for allowable purposes;

271 (2) An inactive farm use ground-water withdrawal permit means one where the permit
 272 holder has requested inactive status in order to retain ownership of the permit for possible
 273 future use or reuse. Inactive permits shall be retained by the permit holder without
 274 modification;

275 (3) An unused farm use ground-water withdrawal permit means one that has never been
 276 used for allowable purposes. Unused permits expire after two years unless changed to
 277 active or inactive status by notification to the director. Unused permits shall not be
 278 transferred or assigned to subsequent owners of the lands as provided in paragraph (1) of
 279 subsection (b) of this Code section;

280 (4) An inactive farm use ground-water withdrawal permit shall be reclassified to active
 281 when the permit holder has given the director 60 days' written notice and paid any
 282 applicable fees in accordance with subsection (a) of this Code section;

283 (5) The director shall, via certified mail, return receipt requested, contact, or cause to be
 284 contacted, any person who holds a permit that the director has determined is unused. The
 285 notification shall include the permit identification and information regarding the
 286 classifications and procedures for changing classifications. The permit holder shall have
 287 120 days to respond after which the director shall issue a second notice via certified mail,
 288 return receipt requested. Two years after the date on which the director first notified the
 289 permit holder via certified mail, return receipt requested, of the unused status
 290 determination of the permit, the director shall revoke the permit if the permit holder has
 291 not requested that the unused permit be reclassified as inactive or active."

292 **SECTION 7.**

293 Said chapter is further amended by revising Code Section 12-5-180.1, relating to allocating
 294 water and waste-water usage among tenants and charging tenants for usage, as follows:

295 "12-5-180.1.

296 (a) Except as otherwise provided in subsections (c) and (d) of this Code section, the ~~The~~
 297 owner or operator of a building containing residential units may install equipment or use
 298 an economic allocation methodology to determine the quantity of water that is provided to
 299 the tenants and used in the common areas of such a building; and the owner of such a
 300 building may charge tenants separately for water and waste-water service based on usage
 301 as determined through the use of such equipment or allocation methodology.

302 (b) Except as otherwise provided in subsections (c) and (d) of this Code section, the ~~The~~
 303 owner or operator of a building containing residential units may charge tenants separately
 304 for water and waste-water service, provided that the total amount of the charges to the
 305 tenants of such a building shall not exceed the total charges paid by the owner or operator
 306 for water and waste-water service for such building plus a reasonable fee for establishing,
 307 servicing, and billing for water and waste-water service and provided, further, that the
 308 terms of the charges are disclosed to the tenants prior to any contractual agreement.

309 (c) All new multiunit residential buildings permitted on or after July 1, 2012, shall be
 310 constructed in a manner which will permit the measurement by a county, municipal, or
 311 other public water system or by the owner or operator of water use by each unit. This
 312 subsection shall not apply to any building constructed or permitted prior to July 1, 2012,
 313 which is thereafter: (1) renovated; or (2) following a casualty or condemnation, renovated
 314 or rebuilt.

315 (d) All new multiunit retail and light industrial buildings permitted or with a pending
316 permit application on or after July 1, 2012, shall be constructed in a manner which will
317 permit the measurement by the owner or operator of water use by each unit. This
318 subsection shall not apply to any building constructed or permitted prior to July 1, 2012,
319 which is thereafter: (1) renovated; or (2) following a casualty or condemnation, renovated
320 or rebuilt. This subsection is not intended to apply to newly constructed multiunit office
321 buildings or office components of mixed use developments. Multiunit office buildings and
322 the office component of mixed use developments may seek reimbursement from office
323 tenants for water and waste-water use through an economic allocation which approximates
324 the water use of each tenant based on square footage. The retail component of a mixed use
325 development shall be constructed in a manner which will permit the measurement by the
326 owner or operator of water use by each retail unit.

327 (e)(1) A county, municipal, or other public water system, if applicable, or the owner or
328 operator of a building which is subject to subsection (c) or (d) of this Code section shall
329 seek reimbursement for water and waste-water usage by the units through an economic
330 allocation methodology which is based on the measured quantity of water used by each
331 unit.

332 (2) The owner or operator of such a building which includes common areas for the
333 benefit of the units may also seek reimbursement for common area water and waste-water
334 use through an economic allocation which approximates the portion of the common area
335 water and waste-water services allocable to each unit.

336 (3) The total amount of charges to the units under paragraphs (1) and (2) of this
337 subsection shall not exceed the total charges paid by the owner or operator for water and
338 waste-water service for the building, plus a reasonable fee for establishing, servicing, and
339 billing water and waste-water consumption.

340 (4) The director shall be empowered to issue a temporary waiver of this subsection upon
341 a showing by an owner or operator of a building subject to this subsection that
342 compliance with this subsection has temporarily become impracticable due to
343 circumstances beyond the control of the owner or operator. Such waiver shall be limited
344 in duration to the period during which such circumstances remain in effect and beyond
345 the control of the owner or operator to change.

346 (5) The owner or operator who seeks reimbursement for water and waste-water usage as
347 required by this chapter shall be relieved of liability for actions or inactions that occur as
348 a result of billing or meter-reading errors by an unaffiliated third-party billing or
349 meter-reading company.

350 (f) A county, municipal, or other public water system shall be prohibited from charging
351 any fee or levy for the installation or use of privately owned meters or other devices which

352 measure or assist in the measurement of water use under subsection (c) of this Code
 353 section; provided, however, a county, municipal or other public water system shall be
 354 permitted to charge a fee or levy for the installation or use of publicly owned meters or
 355 other devices which measure or assist in the measurement of water use.

356 (g) Subsections (c), (d), and (e) of this Code section shall not apply to any construction of
 357 a building the permit for which was granted prior to July 1, 2012."

358 **SECTION 8.**

359 Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to
 360 buildings in general, is amended by revising Code Section 8-2-3, relating to requirements for
 361 toilets, shower heads, and faucets, as follows:

362 "8-2-3.

363 (a) On or before July 1, 2012, the department, with the approval of the board, shall amend
 364 applicable state minimum standard codes to require the installation of high-efficiency
 365 plumbing fixtures in all new construction permitted on or after July 1, 2012.

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

367 (1) ~~'Commercial' means any type of building other than residential.~~

368 (2) 'Construction' means the erection of a new building or the alteration of an existing
 369 building in connection with its repair or renovation or in connection with making an
 370 addition to an existing building and shall include the replacement of a malfunctioning,
 371 unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.

372 (2) 'Department' means the Department of Community Affairs.

373 (3) ~~'Residential' means any building or unit of a building intended for occupancy as a~~
 374 ~~dwelling but shall not include a hotel or motel.~~ 'Lavatory faucet' means a faucet that
 375 discharges into a lavatory basin in a domestic or commercial installation.

376 (4) 'Plumbing fixture' means a device that receives water, waste, or both and discharges
 377 the water, waste, or both into a drainage system. The term includes a kitchen sink, utility
 378 sink, lavatory, bidet, bathtub, shower, urinal, toilet, water closet, or drinking water
 379 fountain.

380 (5) 'Plumbing fixture fitting' means a device that controls and directs the flow of water.
 381 The term includes a sink faucet, lavatory faucet, showerhead, or bath filler.

382 (6) 'Pressurized flushing device' means a device that contains a valve that:

383 (A) Is attached to a pressurized water supply pipe that is of sufficient size to deliver
 384 water at the necessary rate of flow to ensure flushing when the valve is open; and

385 (B) Opens on actuation to allow water to flow into the fixture at a rate and in a quantity
 386 necessary for the operation of the fixture and gradually closes to avoid water hammer.

387 (7) 'Toilet' means a water closet.

388 (8) 'Water closet' means a fixture with a water-containing receptor that receives liquid
 389 and solid body waste and on actuation conveys the waste through an exposed integral trap
 390 into a drainage system and which is also referred to as a toilet.

391 (9) 'WaterSense™' means a voluntary program of the United States Environmental
 392 Protection Agency designed to identify and promote water efficient products and
 393 practices.

394 ~~(b) After April 1, 1992, there shall not be initiated within this state the construction of any~~
 395 ~~residential building of any type which:~~

396 (c) The standards related to high-efficiency plumbing fixtures shall include without
 397 limitation, the following:

398 ~~(1) Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses~~
 399 ~~more than an average of 1.6 gallons of water per flush; provided, however, this paragraph~~
 400 ~~shall not be applicable to one-piece toilets until July 1, 1992; A water closet or toilet that:~~

401 (A) Is a dual flush water closet that meets the following standards:

402 (i) The average flush volume of two reduced flushes and one full flush may not
 403 exceed 1.28 gallons;

404 (ii) The toilet meets the performance, testing, and labeling requirements prescribed
 405 by the following standards, as applicable:

406 (I) American Society of Mechanical Engineers Standard A112.19.2-2008; and

407 (II) American Society of Mechanical Engineers Standard A112.19.14-2006
 408 'Six-Liter Water Closets Equipped with a Dual Flushing Device'; and

409 (iii) Is listed to the WaterSense™ Tank-Type High Efficiency Toilet Specification;
 410 or

411 (B) Is a single flush water closet, including gravity, pressure assisted, and
 412 electro-hydraulic tank types, that meets the following standards:

413 (i) The average flush volume may not exceed 1.28 gallons;

414 (ii) The toilet must meet the performance, testing, and labeling requirements
 415 prescribed by the American Society of Mechanical Engineers Standard
 416 A112.192/CSA B45.1 or A112.19.14; and

417 (iii) The toilet must be listed to the WaterSense™ Tank-Type High Efficiency Toilet
 418 Specification;

419 ~~(2) Employs a A shower head that allows a flow of no more than an average of 2.5~~
 420 ~~gallons of water per minute at 60 pounds per square inch of pressure;~~

421 ~~(3) Employs a A urinal that uses more than an average of 1.0 gallon of water per flush;~~
 422 ~~and associated flush valve that:~~

423 (A) Uses no more than 0.5 gallons of water per flush;

- 424 (B) Meets the performance, testing, and labeling requirements prescribed by the
 425 American Society of Mechanical Engineers Standard A112.19.2/CSA B45.1;
- 426 (C) For flushing urinals, meets all WaterSense™ specifications for flushing urinals;
 427 and
- 428 (D) Where nonwater urinals are employed, complies with American Society of
 429 Mechanical Engineers Standard A112.19.3/CSA B45.4 or American Society of
 430 Mechanical Engineers Standard A112.19.19/CSA B45.4. Nonwater urinals shall be
 431 cleaned and maintained in accordance with the manufacturer's instructions after
 432 installation. Where nonwater urinals are installed they shall have a water distribution
 433 line roughed-in to the urinal location at a minimum height of 56 inches (1,422 mm) to
 434 allow for the installation of an approved backflow prevention device in the event of a
 435 retrofit. Such water distribution lines shall be installed with shut-off valves located as
 436 close as possible to the distributing main to prevent the creation of dead ends. Where
 437 nonwater urinals are installed, a minimum of one water supplied fixture rated at a
 438 minimum of one water supply fixture unit shall be installed upstream on the same drain
 439 line to facilitate drain line flow and rinsing;
- 440 (4) ~~Employs a~~ A lavatory faucet or lavatory replacement aerator that allows a flow of no
 441 more than 2.0 1.5 gallons of water per minute at a pressure of 60 pounds per square inch
 442 in accordance with American Society of Mechanical Engineers Standard A112.18.1/CSA
 443 B.125.1 and listed to the WaterSense™ High-Efficiency Lavatory Faucet Specification;
 444 ~~or~~ and
- 445 (5) ~~Employs a~~ A kitchen faucet or kitchen replacement aerator that allows a flow of no
 446 more than 2.5 2.0 gallons of water per minute.
- 447 ~~(c) On and after July 1, 1992, there shall not be initiated within this state the construction~~
 448 ~~of any commercial building of any type which does not meet the requirements of~~
 449 ~~paragraphs (1) through (5) of subsection (b) of this Code section.~~
- 450 ~~(d) The requirements of subsection (b) of this Code section shall apply to any residential~~
 451 ~~construction initiated after April 1, 1992, and to any commercial construction initiated after~~
 452 ~~July 1, 1992, which involves the repair or renovation of or addition to any existing building~~
 453 ~~when such repair or renovation of or addition to such existing building includes the~~
 454 ~~replacement of toilets or showers or both. To the extent that the standards set forth in this~~
 455 ~~Code section exceed the National Energy Conservation Policy Act, as amended, and 10~~
 456 ~~C.F.R. 430.32, the department is directed to petition the Department of Energy for a waiver~~
 457 ~~of federal preemption pursuant to 42 U.S.C. Section 6297(d).~~
- 458 (e) The department is directed to amend the applicable state minimum codes so as to
 459 permit counties ~~Counties~~ and municipalities ~~are authorized and directed to provide by~~
 460 ordinance for an exemption to the requirements of subsections (b), (c), and (d) subsection

461 (c) of this Code section, relative to new construction and to the repair or renovation of an
 462 existing building, under the following conditions:

463 (1) When the repair or renovation of the existing building does not include the
 464 replacement of the plumbing or sewage system servicing toilets, faucets, or shower heads
 465 within such existing building;

466 (2) When such plumbing or sewage system within such existing building, because of its
 467 capacity, design, or installation, would not function properly if the toilets, faucets, or
 468 shower heads required by this part were installed;

469 (3) When such system is a well or gravity flow from a spring and is owned privately by
 470 an individual for use in such individual's personal residence; or

471 (4) When units to be installed are:

472 (A) Specifically designed for use by persons with disabilities;

473 (B) Specifically designed to withstand unusual abuse or installation in a penal
 474 institution; or

475 (C) Toilets for juveniles.

476 (f) The ordinances adopted by counties and municipalities pursuant to subsection (e) of
 477 this Code section shall provide procedures and requirements to apply for the exemption
 478 authorized by said subsection.

479 ~~(g) This Code section shall not apply to any construction of a residential building the
 480 contract for which was entered into prior to April 1, 1992, and shall not apply to any
 481 construction of a commercial building the contract for which was entered into prior to July
 482 1, 1992.~~

483 ~~(h)~~ Any person who installs any toilet, faucet, urinal, or shower head in violation of this
 484 Code section shall be guilty of a misdemeanor.

485 ~~(i)~~(h) Before ~~April 1, 1992~~ July 1, 2012, a city, county, or authority shall adopt and
 486 enforce the provisions of this Code section in order to be eligible to receive any of the
 487 following grants, loans, or permits:

488 (1) A water or waste-water facilities grant administered by the Department of Natural
 489 Resources or the Department of Community Affairs; or

490 (2) A water or waste-water facilities loan administered by the Georgia Environmental
 491 Facilities Authority.

492 ~~(j)~~(i) ~~For purposes of this part, after April 1, 1992, After July 1, 2012, the sale of a gravity
 493 tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of
 494 ~~1.6~~ 1.28 gallons of water per flush shall be ~~is~~ prohibited in this state.~~

495 ~~(k)~~(j) The provisions of this Code section shall not be construed to prohibit counties or
 496 municipalities from adopting and enforcing local ordinances which provide requirements
 497 which are more stringent than the requirements of this Code section."

498

SECTION 9.

499 Said article is further amended in Code Section 8-2-23, relating to amendment and revision
500 of state minimum code standards, by adding a new subsection to read as follows:

501 "(c)(1) On or before July 1, 2012, the department, with the approval of the board, shall
502 amend applicable state minimum standard codes to require the installation of
503 high-efficiency cooling towers in new construction permitted on or after July 1, 2012.

504 (2) As used in this subsection, the term 'cooling tower' means a building heat removal
505 device used to transfer process waste heat to the atmosphere.

506 (3) The standards related to high-efficiency cooling towers shall include without
507 limitation the minimum standards prescribed by the American Society of Heating,
508 Refrigerating, and Air-Conditioning Engineers Standard 90.1 as adopted and amended
509 by the department."

510

SECTION 10.

511 There is created the Joint Committee on Water Supply to be composed of ten members as
512 follows: five members of the House of Representatives shall be appointed by the Speaker of
513 the House with one being the chairperson of the House Natural Resources and Environment
514 Committee and five members of the Senate shall be appointed by the President of the Senate
515 with one being the chairperson of the Senate Natural Resources and the Environment
516 Committee. The House and Senate Natural Resources and Environment Committee
517 chairpersons shall serve as co-chairpersons. The committee shall meet on the call of either
518 co-chairperson. The committee shall undertake a study and analysis of the current status of
519 the state's reservoir system and shall conduct a comprehensive analysis of the state's strategic
520 needs for additional water supply, including without limitation the identification of creative
521 financing options for water reservoirs and other opportunities for water supply enhancement.
522 The committee may conduct its meetings at such places and at such times as it may deem
523 necessary or convenient to enable it to exercise fully and effectively its powers, perform its
524 duties, and accomplish its objectives and purposes. The members of the committee shall
525 receive the allowances authorized for legislative members of interim legislative committees
526 but shall receive the same for not more than five days unless additional days are authorized.
527 The funds necessary to carry out the provisions of this section shall come from the funds
528 appropriated to the House of Representatives and Senate. The committee is directed to make
529 a report of its findings and recommendations not later than December 31, 2010. The
530 committee shall stand abolished on December 31, 2010.

531 **SECTION 11.**

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

534 **SECTION 12.**

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