

House Bill 1094

By: Representatives Smith of the 70<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, England of the 108<sup>th</sup>, Manning of the 32<sup>nd</sup>, Lindsey of the 54<sup>th</sup>, and others

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 provide for the establishment of a program to encourage voluntary  
13 monitoring of certain water withdrawals; to provide for measuring and separate charging of  
14 water to tenants in certain new construction; to amend Article 1 of Chapter 2 of Title 8 of the  
15 Official Code of Georgia, relating to buildings in general, so as to require high-efficiency  
16 toilets, shower heads, and faucets; to require high-efficiency cooling towers; to create the  
17 Joint Committee on Water Supply; to provide for related matters; to provide for an effective  
18 date; to repeal conflicting laws; and for other purposes.

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

20 **SECTION 1.**

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

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

31 **SECTION 2.**

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

35 "12-5-4.

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

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

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

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

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

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

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

57 (6) Encourage the installation of residential and commercial drought tolerant landscapes  
 58 and landscaping practices;

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

61 (8) Encourage the installation of submeters on existing nonsubmetered multifamily  
 62 complexes and multitenant commercial and industrial complexes;

- 63 (9) Encourage public water systems to develop and improve water loss abatement  
 64 programs;
- 65 (10) Encourage public water systems to implement the industry's best management  
 66 practices for controlling water loss and achieve the recommended standards;
- 67 (11) Provide incentives for residential and commercial water conservation pricing by  
 68 public water systems;
- 69 (12) Provide incentives for public water systems to use full cost accounting;
- 70 (13) Encourage voluntary inclusion of water conservation guidelines in applications for  
 71 new ground-water withdrawal permits and surface-water withdrawal permits; and
- 72 (14) Establish appropriate outdoor watering restrictions and improve the outdoor  
 73 watering restrictions to be implemented during drought conditions.
- 74 (c) On or before August 1, 2010, the agencies shall examine their practices, programs,  
 75 policies, rules, and regulations to identify opportunities to enhance the state's water supply.  
 76 The agencies shall, without limitation, identify opportunities to:
- 77 (1) Prioritize funding, when available, for interconnections of systems, ground water,  
 78 expanded reservoirs, and new reservoirs; and
- 79 (2) Conduct feasibility studies on reservoir dredging and water management measures  
 80 that could enhance water supply when funding is available.
- 81 (d) Each agency shall coordinate with the Department of Natural Resources to:
- 82 (1) Establish administrative programs and procedures to encourage water conservation  
 83 and water supply management consistent with the results of the reviews required under  
 84 subsections (b) and (c) of this Code section;
- 85 (2) Submit an interim report of the reviews required under subsections (b) and (c) of this  
 86 Code section to the Governor, Lieutenant Governor, and Speaker of the House on or  
 87 before July 1, 2010, which shall include, at a minimum, the programmatic changes and  
 88 proposed changes being implemented to encourage water conservation and water supply  
 89 enhancement;
- 90 (3) Submit a final report of the review required under subsections (b) and (c) of this  
 91 Code section to the General Assembly by August 1, 2010, which report shall include at  
 92 a minimum an outline of the rules, regulations, and policies that have been adopted to  
 93 develop water conservation and water supply enhancement incentive programs; and
- 94 (4) Submit a report to the General Assembly on or before January 1 of 2011, 2012, 2013,  
 95 2014, and 2015 outlining the programmatic changes encouraging water conservation and  
 96 enhancing water supply management that were implemented during the immediately  
 97 preceding calendar year, outlining the agency's goals for the next calendar year, and  
 98 identifying the rules, regulations, and policies that were adopted to support those  
 99 programmatic changes."

**SECTION 3.**

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

"12-5-4.1.

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

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

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

(b) The division shall, by January 1, 2011, promulgate the minimum standards and best practices for monitoring and improving the efficiency and effectiveness of water use by public water systems to improve water conservation. The best practices program shall include without limitation:

(1) The establishment of an infrastructure leakage index;

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

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

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

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

By January 1, 2012, public water systems serving at least 10,000 individuals shall have conducted a water loss audit pursuant to the minimum standards and best practices promulgated by the division. By January 1, 2013, all other public water systems shall have conducted a water loss audit pursuant to the minimum standards and best practices promulgated by the division."

133 **SECTION 4.**

134 Said chapter is further amended by adding a new subsection (p) to Code Section 12-5-31,  
 135 relating to the establishment of a program to encourage voluntary monitoring of surface  
 136 water withdrawals, to read as follows:

137 "(p) By July 1, 2012, the division shall establish, in conjunction with the State Soil and  
 138 Water Conservation Commission and the Department of Agriculture, a program to  
 139 encourage voluntary monitoring of surface-water withdrawals by permittees."

140 **SECTION 5.**

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

143 "12-5-180.1.

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

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

157 (c) All new multitenant residential, commercial, or industrial buildings permitted on or  
 158 after July 1, 2012, shall be constructed in a manner which will permit the measurement by  
 159 the owner or operator of water use by each tenant. This subsection shall not apply to any  
 160 building constructed or permitted prior to July 1, 2012, which is thereafter: (1) renovated;  
 161 or (2) following a casualty or condemnation, renovated or rebuilt.

162 (d)(1) The owner or operator of a building which is subject to subsection (c) of this Code  
 163 section shall seek reimbursement for water and waste-water usage by the tenants through  
 164 an economic allocation methodology which is based on the measured quantity of water  
 165 used by each tenant.

166 (2) The owner or operator of such a building which includes common areas for the  
 167 benefit of tenants may also seek reimbursement for common area water and waste-water

168 usage through an economic allocation which approximates the portion of the common  
 169 area water and waste-water services allocable to each tenant.

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

174 (e) Counties, municipalities, and other public water systems shall be prohibited from  
 175 charging any fee or levy for the installation or use of privately owned meters or other  
 176 devices which measure or assist in the measurement of water use under subsection (c) of  
 177 this Code section.

178 (f) Subsections (c) and (d) of this Code section shall not apply to any construction of a  
 179 building the contract for which was entered into prior to July 1, 2012."

180 **SECTION 6.**

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

184 "8-2-3.

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

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

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

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

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

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

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

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

- 204 (6) 'Pressurized flushing device' means a device that contains a valve that:  
205 (A) Is attached to a pressurized water supply pipe that is of sufficient size to deliver  
206 water at the necessary rate of flow to ensure flushing when the valve is open; and  
207 (B) Opens on actuation to allow water to flow into the fixture at a rate and in a quantity  
208 necessary for the operation of the fixture and gradually closes to avoid water hammer.
- 209 (7) 'Toilet' means a water closet.
- 210 (8) 'Water closet' means a fixture with a water-containing receptor that receives liquid  
211 and solid body waste and on actuation conveys the waste through an exposed integral trap  
212 into a drainage system and which is also referred to as a toilet.
- 213 (9) 'waterSense™' means a voluntary program of the United States Environmental  
214 Protection Agency designed to identify and promote water efficient products and  
215 practices.
- 216 ~~(b) After April 1, 1992, there shall not be initiated within this state the construction of any~~  
217 ~~residential building of any type which:~~
- 218 (c) The standards related to high-efficiency plumbing fixtures shall include without  
219 limitation, the following:
- 220 (1) Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses  
221 more than an average of 1.6 gallons of water per flush; provided, however, this paragraph  
222 shall not be applicable to one-piece toilets until July 1, 1992; A water closet or toilet that:
- 223 (A) Is a dual flush water closet that meets the following standards:
- 224 (i) The average flush volume of two reduced flushes and one full flush may not  
225 exceed 1.28 gallons;
- 226 (ii) The toilet meets the performance, testing, and labeling requirements prescribed  
227 by the following standards, as applicable:
- 228 (I) American Society of Mechanical Engineers Standard A112.19.2-2008; and  
229 (II) American Society of Mechanical Engineers Standard A112.19.14-2006  
230 'Six-Liter Water Closets Equipped with a Dual Flushing Device'; and
- 231 (iii) Is listed to the waterSense™ Tank-Type High Efficiency Toilet Specification;  
232 or
- 233 (B) Is a single flush water closet, including gravity, pressure assisted, and  
234 electro-hydraulic tank types, that meets the following standards:
- 235 (i) The average flush volume may not exceed 1.28 gallons;
- 236 (ii) The toilet must meet the performance, testing, and labeling requirements  
237 prescribed by the American Society of Mechanical Engineers Standard  
238 A112.192/CSA B45.1 or A112.19.14; and
- 239 (iii) The toilet must be listed to the waterSense™ Tank-Type High Efficiency Toilet  
240 Specification;

- 241 (2) ~~Employs a~~ A shower head that allows a flow of more than an average of 2.5 gallons  
 242 of water per minute at 60 pounds per square inch of pressure;
- 243 (3) ~~Employs a~~ A urinal that ~~uses more than an average of 1.0 gallon of water per flush;~~  
 244 and associated flush valve that:
- 245 (A) Uses no more than 0.5 gallons of water per flush;
- 246 (B) Meets the performance, testing, and labeling requirements prescribed by the  
 247 American Society of Mechanical Engineers Standard A112.19.2/CSA B45.1; and
- 248 (C) Where nonwater urinals are employed, complies with American Society of  
 249 Mechanical Engineers Standard A112.19.3/CSA B45.4, American Society of  
 250 Mechanical Engineers Standard A112.19.19/CSA B45.4, or International Association  
 251 of Plumbing and Mechanical Officials Z124.9. Nonwater urinals shall be cleaned and  
 252 maintained in accordance with the manufacturer's instructions after installation. Where  
 253 nonwater urinals are installed they shall have a water distribution line roughed-in to the  
 254 urinal location at a minimum height of 56 inches (1,422 mm) to allow for the  
 255 installation of an approved backflow prevention device in the event of a retrofit. Such  
 256 water distribution lines shall be installed with shut-off valves located as close as  
 257 possible to the distributing main to prevent the creation of dead ends. Where nonwater  
 258 urinals are installed, a minimum of one water supplied fixture rated at a minimum of  
 259 one water supply fixture unit shall be installed upstream on the same drain line to  
 260 facilitate drain line flow and rinsing;
- 261 (4) ~~Employs a~~ A lavatory faucet or lavatory replacement aerator that allows a flow of no  
 262 more than 2.0 1.5 gallons of water per minute at a pressure of 60 pounds per square inch  
 263 in accordance with American Society of Mechanical Engineers Standard A112.18.1/CSA  
 264 B.125.1 and listed to the waterSense™ High-Efficiency Lavatory Faucet Specification;  
 265 or and
- 266 (5) ~~Employs a~~ A kitchen faucet or kitchen replacement aerator that allows a flow of no  
 267 more than 2.5 2.0 gallons of water per minute.
- 268 (c) ~~On and after July 1, 1992, there shall not be initiated within this state the construction~~  
 269 ~~of any commercial building of any type which does not meet the requirements of~~  
 270 ~~paragraphs (1) through (5) of subsection (b) of this Code section.~~
- 271 (d) ~~The requirements of subsection (b) of this Code section shall apply to any residential~~  
 272 ~~construction initiated after April 1, 1992, and to any commercial construction initiated after~~  
 273 ~~July 1, 1992, which involves the repair or renovation of or addition to any existing building~~  
 274 ~~when such repair or renovation of or addition to such existing building includes the~~  
 275 ~~replacement of toilets or showers or both. To the extent that the standards set forth in this~~  
 276 ~~Code section exceed the National Energy Conservation Policy Act, as amended, and 10~~

277 C.F.R. 430.32, the department is directed to petition the Department of Energy for a waiver  
 278 of federal preemption pursuant to 42 U.S.C. Section 6297(d).

279 (e) The department is directed to amend the applicable state minimum codes so as to  
 280 permit counties Counties and municipalities ~~are authorized and directed~~ to provide by  
 281 ordinance for an exemption to the requirements of ~~subsections (b), (c), and (d)~~ subsection  
 282 (c) of this Code section, relative to new construction and to the repair or renovation of an  
 283 existing building, under the following conditions:

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

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

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

292 (4) When units to be installed are:

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

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

296 (C) Toilets for juveniles.

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

300 ~~(g) This Code section shall not apply to any construction of a residential building the~~  
 301 ~~contract for which was entered into prior to April 1, 1992, and shall not apply to any~~  
 302 ~~construction of a commercial building the contract for which was entered into prior to July~~  
 303 ~~1, 1992.~~

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

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

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

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

313 ~~(j)(i)~~ For purposes of this part, after April 1, 1992, the The sale of a gravity tank-type,  
 314 flushometer-valve, or flushometer-tank toilet that uses more than an average of ~~4.6~~ 1.28  
 315 gallons of water per flush ~~shall be~~ is prohibited in this state.

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

319 **SECTION 7.**

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

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

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

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

331 **SECTION 8.**

332 There is created the Joint Committee on Water Supply to be composed of 12 members as  
 333 follows: four at-large members shall be appointed by the Governor, four members of the  
 334 House of Representatives shall be appointed by the Speaker of the House with one being the  
 335 chairperson of the House Natural Resources Committee, and four members of the Senate  
 336 shall be appointed by the President of the Senate with one being the chairperson of the Senate  
 337 Natural Resources Committee. The House and Senate Natural Resources Committee  
 338 chairpersons shall serve as co-chairpersons. The committee shall meet on the call of either  
 339 co-chairperson. The committee shall undertake a study and analysis of the current status of  
 340 the state's reservoir system and shall conduct a comprehensive analysis of the state's strategic  
 341 needs for additional water supply, including without limitation the identification of creative  
 342 financing options for water reservoirs and other opportunities for water supply enhancement.  
 343 The committee may conduct its meetings at such places and at such times as it may deem  
 344 necessary or convenient to enable it to exercise fully and effectively its powers, perform its  
 345 duties, and accomplish its objectives and purposes. The legislative members of the  
 346 committee shall receive the allowances authorized for legislative members of interim  
 347 legislative committees but shall receive the same for not more than five days unless

348 additional days are authorized. No allowance shall be paid to other members of the  
349 committee. The funds necessary to carry out the provisions of this section shall come from  
350 the funds appropriated to the House of Representatives and Senate. The committee is  
351 directed to make a report of its findings and recommendations not later than December 31,  
352 2010. The committee shall stand abolished on December 31, 2010.

353 **SECTION 9.**

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

356 **SECTION 10.**

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