

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

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.

100

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

102 "12-5-4.1.103 (a) As used in this Code section, the term:104 (1) 'Division' means the Environmental Protection Division of the Department of Natural
105 Resources.106 (2) 'Public water system' means a system for the provision to the public of piped water
107 for human consumption, if such system regularly serves at least 3,300 individuals. Such
108 term includes but is not limited to any collection, treatment, storage, and distribution
109 facilities under the control of the operator of such system and used primarily in
110 connection with such system and any collection or pretreatment storage facilities not
111 under such control which are used primarily in connection with such system.112 (b) The division shall, by January 1, 2011, promulgate the minimum standards and best
113 practices for monitoring and improving the efficiency and effectiveness of water use by
114 public water systems to improve water conservation. The best practices program shall
115 include without limitation:116 (1) The establishment of an infrastructure leakage index;117 (2) The establishment of categories of public water systems based on geographical size
118 and service population;119 (3) A phased-in approach requiring public water systems to conduct standardized annual
120 water loss audits according to the International Water Association water audit
121 method/standard;122 (4) A phased-in approach requiring public water systems to implement water loss
123 detection programs; and124 (5) The development of a technical assistance program to provide guidance to public
125 water systems for water loss detection programs, to include without limitation metering
126 techniques, utilization of portable and permanent water loss detection devices, and
127 funding when available.128 By January 1, 2012, public water systems serving at least 10,000 individuals shall have
129 conducted a water loss audit pursuant to the minimum standards and best practices
130 promulgated by the division. By January 1, 2013, all other public water systems shall have
131 conducted a water loss audit pursuant to the minimum standards and best practices
132 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.