

Senate Bill 128

By: Senators Hooks of the 14th, Jackson of the 2nd, Sims of the 12th, Harbison of the 15th,  
Stone of the 23rd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water  
2 resources, so as to regulate interbasin transfers of water; to change certain provisions relating  
3 to permits for withdrawal, diversion, or impoundment of surface waters generally and for  
4 farm uses, coordination with water plans, restrictions, and monitoring, recording, and  
5 reporting water withdrawals; to change certain provisions relating to a policy statement for  
6 comprehensive state-wide water management planning, guiding principles, and requirements  
7 of plans; to define certain terms; to provide for conditions under which interbasin transfers  
8 of water may be authorized; to provide factors to be considered with regard to water  
9 withdrawal permits involving interbasin transfers of water; to provide certain exemptions;  
10 to provide for effect on other restrictions; to provide an effective date; to repeal conflicting  
11 laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,  
15 is amended by revising paragraph (2) of subsection (n) of Code Section 12-5-31, relating to  
16 permits for withdrawal, diversion, or impoundment of surface waters generally and for farm  
17 uses, coordination with water plans, restrictions, and monitoring, recording, and reporting  
18 water withdrawals, as follows:

19 "(2) The director shall provide a press release regarding the proposed issuance of ~~all~~  
20 ~~permits any permit~~ authorizing such interbasin transfer of surface waters to newspapers  
21 of general circulation in all areas of ~~the~~ this state which would be affected by such  
22 issuance. An identical notice shall also be posted on the department's Internet website.  
23 The press release and notice shall be provided at least ~~seven~~ 30 days before the issuance  
24 of these permits such permit, during which time the director shall receive public comment  
25 regarding the proposed permit. If the director should determine that sufficient public  
26 interest warrants a public hearing on the issuance of ~~these permits such permit~~, he or she

27 shall cause such a hearing to be held somewhere in the area affected prior to the issuance  
28 of ~~these permits~~ such permit."

29 **SECTION 2.**

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

33 "(e) The division shall make all water withdrawal permitting decisions in accordance with  
34 this chapter, the comprehensive state-wide water management plan that has been approved  
35 or enacted by the General Assembly as provided by this article, and any applicable regional  
36 water development and conservation plan, including, but not limited to, restrictions, ~~if any,~~  
37 on diversion from or reduction of flows in other watercourses in accordance with Code  
38 Section 12-5-522.1. Any political subdivision or local water authority that is not in  
39 compliance with the plan shall be ineligible for state grants or loans for water projects,  
40 except for those projects designed to bring such political subdivision or local water  
41 authority into compliance with the plan."

42 **SECTION 3.**

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

44 "12-5-522.1.

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

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

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

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

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

54 (b)(1) Interbasin transfers may be permitted to meet water needs in areas facing  
55 limitations on their water resources, as indicated when the forecast consumption of water  
56 from a specific source approaches the defined consumptive use assessment, so long as the  
57 interbasin transfer does not unreasonably foreclose opportunities for water use in the  
58 donor basin.

59 (2) An application for a new or modified water withdrawal permit that would involve a  
60 new or increased raw water interbasin transfer shall not be granted until consumptive use  
61 assessments have been completed for the affected water sources, and water development

62 and conservation plans which identify the need for such raw water interbasin transfers  
63 have been completed for the affected water planning regions.

64 (3) The director shall review and consider the factors listed in this paragraph in  
65 evaluating an application or a permit renewal for a water withdrawal permit that would  
66 allow an interbasin transfer of more than one million gallons of water per day as  
67 measured on an annual average basis. The director shall review and consider the factors  
68 listed in this paragraph in evaluating an application for a new or modified water  
69 withdrawal permit that would allow an interbasin transfer of less than one million gallons  
70 of water per day on an annual average basis if the county or water user is already  
71 transferring a cumulative average of one million gallons of water per day on an annual  
72 basis from any one river basin. The factors to be considered shall include:

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

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

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

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

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

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

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

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

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

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

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

94 (iv) The beneficial effect of any proposed interbasin transfer and the demonstrated  
95 capability of the applicant to effectively implement its responsibilities under the  
96 requested permit;

97 (v) The effect of the proposed interbasin transfer on water conservation;

- 98 (vi) The applicant's efforts to explore all reasonable options for use of reclaimed  
 99 water and recycling of available resources to meet the needs of the receiving basin;  
 100 and  
 101 (vii) Assessment of the adequacy of treatment capacity and current water quality  
 102 conditions; and  
 103 (C) Considerations affecting both basins, including but not limited to:  
 104 (i) The economic feasibility, cost effectiveness, and environmental effects of the  
 105 proposed interbasin transfer in relation to alternative sources of water supply;  
 106 (ii) The cumulative effects of the current and proposed interbasin transfers in each  
 107 basin;  
 108 (iii) The requirements of the state and federal agencies with authority related to water  
 109 resources;  
 110 (iv) The availability of water for responding to emergencies, including but not limited  
 111 to drought, in the donor basin and the receiving basin;  
 112 (v) The effects, whether beneficial or detrimental, on offstream and instream uses;  
 113 (vi) The quantity, quality, location, and timing of water returned to the donor basin,  
 114 receiving basin, and basins downstream;  
 115 (vii) Effects on interstate water use;  
 116 (viii) The cumulative effect on the donor basin and the receiving basin of any water  
 117 transfer or consumptive use that is authorized or forecast; and  
 118 (ix) Such other factors as are reasonably necessary to carry out the purposes of this  
 119 chapter.  
 120 (c) Interbasin transfers of water that occur in connection with mining, conveying,  
 121 processing, sale, or shipment of minerals or other products transported for further  
 122 processing or sale shall be exempt from subsection (b) of this Code section.  
 123 (d) Nothing in this Code section shall modify or in any way affect the provisions of  
 124 subsection (f) of Code Section 12-5-584."

125 **SECTION 4.**

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

128 **SECTION 5.**

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