

House Bill 368

By: Representatives McCall of the 30<sup>th</sup>, Powell of the 29<sup>th</sup>, Roberts of the 154<sup>th</sup>, Burns of the 157<sup>th</sup>, England of the 108<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

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

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

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Agricultural Water Supply Protection Act."

16 **SECTION 2.**

17 The purpose of this Act is to protect supplies of water for agricultural and other uses through  
18 regulation of withdrawals, diversions, and reductions of water flows.

19 **SECTION 3.**

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

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

#### 35 SECTION 4.

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

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

#### 48 SECTION 5.

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

50 "12-5-522.1.

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

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

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

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

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

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

65 (2) An application for a new or modified water withdrawal permit that would involve a  
66 new or increased raw water interbasin transfer shall not be granted until consumptive use  
67 assessments have been completed for the affected water sources, and water development  
68 and conservation plans which identify the need for such raw water interbasin transfers  
69 have been completed for the affected water planning regions.

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

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

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

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

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

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

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

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

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

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

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

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

131 **SECTION 6.**

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

134 **SECTION 7.**

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