

House Bill 368

By: Representatives McCall of the 30th, Powell of the 29th, Roberts of the 154th, Burns of the 157th, England of the 108th, 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:

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.