

Senate Bill 213

By: Senators Tolleson of the 20th, Sims of the 12th, Burke of the 11th, Hill of the 4th,
Chance of the 16th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 9 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the
2 "Flint River Drought Protection Act," so as to clarify legislative intent; to revise definitions;
3 to expand programs and provide for completion of new studies; to provide for additional
4 powers of the director; to provide for new irrigation efficiency requirements; to provide for
5 participation in augmented flow programs; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 9 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the "Flint River
10 Drought Protection Act," is amended by revising subsection (b) of Code Section 12-5-541,
11 relating to legislative intent, as follows:

12 "(b) The General Assembly finds that the use of water resources for the state for
13 agricultural purposes is of vital importance to Georgia and southwest Georgia in particular;
14 the protection of flows in the Flint River flow and its tributaries is necessary for a healthy
15 riverine ecosystem and a healthy population of aquatic life; the use of water resources
16 during drought conditions may interfere with public and private rights; the economic
17 well-being of the State of Georgia is dependent on a strong and efficient agricultural
18 industry; the wise use of water, the protection of stream ~~flow~~ flows, and the economic
19 well-being of the state will be furthered by proper water allocation in periods of drought;
20 ~~and a program providing programs to augment stream flows or provide~~ incentives to ensure
21 that certain irrigated lands are temporarily not irrigated during severe droughts will
22 promote the wise use of water resources, the protection of stream flows, and the economic
23 well-being of the state."

60 (13) 'Permittee' means a person holding a valid permit issued before December 1, 2000,
61 pursuant to Code Section 12-5-31 or 12-5-96.

62 (14) 'Stream flow' means the quantity of water passing a given location of the Flint River
63 or its tributaries over a given time period expressed in cubic feet per second."

64 **SECTION 3.**

65 Said article is further amended in Code Section 12-5-544, relating to powers of the director
66 of the Environmental Protection Division, by revising paragraph (2) and adding a new
67 paragraph to read as follows:

68 "(2) Establish acceptable Flint River basin stream flows at one or more locations;"

69 "(9.1) Conduct and participate in studies related to management of the water resources
70 in the Flint River basin."

71 **SECTION 4.**

72 Said article is further amended in Code Section 12-5-546, relating to drought predictions and
73 irrigation reduction auction, by revising subsections (a), (b), and (e) as follows:

74 "(a) On or before March 1 of each year, the division ~~will~~ may issue a prediction as to
75 whether severe drought conditions are expected during the year. If the division predicts
76 a severe drought during any particular year, it shall issue such prediction before March 1
77 of that year.

78 (b) If severe drought conditions are predicted or otherwise declared in accordance with
79 subsection (a) of this Code section, the division ~~will~~ may determine the total number of
80 acres of irrigated land, serviced by irrigation systems located within one or more of the
81 affected areas, that must not be irrigated that year in order to maintain the acceptable Flint
82 River basin stream ~~flow~~ flows. Upon such determination, the division ~~shall~~ may conduct
83 an irrigation reduction auction whereby a permittee of an irrigation system located within
84 the affected areas is given an opportunity to enter into an agreement with the division,
85 agreeing that in exchange for a certain sum of money per acre of irrigated land serviced by
86 the irrigation system, the permittee will not irrigate those particular acres for the remainder
87 of that calendar year. The authority shall pay the sum so agreed upon when so directed by
88 the director from the unexpended balance of the drought protection funds. In conducting
89 the irrigation reduction auction, the division may establish a maximum dollar amount per
90 acre to be expended from the drought protection funds for such purposes."

91 "(e) The expenditure of funds under this article as an incentive to permittees not to irrigate
92 lands is deemed by the legislature as a valid use of state moneys to promote valid land use
93 policies that result in the protection of the riverine environment by ensuring that such lands
94 not be irrigated for specified periods of time. No expenditure of funds under this article

95 shall be considered full or partial compensation for any losses, financial or otherwise,
 96 experienced due to nonirrigation; a lease or repurchase of any irrigation permit issued by
 97 the director, ~~nor shall it be considered;~~ or an acknowledgment by the State of Georgia of
 98 a property right in any permit issued by the director."

99 **SECTION 5.**

100 Said article is further amended by adding new Code sections to read as follows:

101 "12-5-546.1.

102 On or before January 1, 2014, the division shall, as appropriate and in cooperation with
 103 other state and federal agencies, universities, and other appropriate entities, undertake
 104 certain studies the results of which may be used to establish new and revised rules and
 105 regulations pertaining to the management of the water resources in the Flint River basin
 106 consistent with this article. Such studies shall include, but not be limited to:

107 (1) Hydrologic studies to better characterize the response of surface- and ground-water
 108 resources to water use, changes in the watershed, and drought management actions;

109 (2) Studies to develop flow targets or thresholds for the Flint River and selected
 110 tributaries which include mechanisms for input from local users to incorporate social and
 111 other values;

112 (3) Studies to enhance baseline information related to irrigated acreage, agricultural
 113 water use, and potential for adoption of technology to improve irrigation efficiency; and

114 (4) Assessment of additional drought management actions and funding alternatives,
 115 including quantification of agricultural withdrawal permits.

116 12-5-546.2.

117 (a) The Department of Agriculture and the State Soil and Water Conservation Commission
 118 shall coordinate with the division in examining current practices, programs, policies, rules,
 119 and regulations to identify opportunities to enhance programming and incentives that will:

120 (1) Support implementation of the agricultural water efficiency measures in water
 121 conservation or management plans prepared in accordance with Code Sections 12-5-31,
 122 12-5-96, and 12-5-522;

123 (2) Support implementation of pilot projects demonstrating the efficacy of emerging
 124 innovative irrigation technologies where appropriate and affordable;

125 (3) Identify ways the State Soil and Water Conservation Commission's program for
 126 measuring agricultural uses of water as authorized under Code Section 12-5-105 can
 127 further enhance efforts to improve agricultural water use efficiency; and

128 (4) Encourage a scheduled program for the voluntary retirement of unused surface-water
129 and ground-water farm use permits in accordance with Code Sections 12-5-31 and
130 12-5-105.

131 (b) The director may modify all active surface-water and ground-water withdrawal permits
132 for farm use in the affected area to require all irrigation systems applying water withdrawn
133 pursuant to such permits to achieve application efficiencies of 80 percent or greater by the
134 year 2020. The schedule for achieving the application efficiencies provided in this
135 subsection shall be as follows:

136 (1) Irrigation systems applying water withdrawn pursuant to all active permits issued
137 after 2005 shall achieve a minimum application efficiency of 80 percent by January 1,
138 2016;

139 (2) Irrigation systems applying water withdrawn pursuant to all active permits issued
140 from 1991 through 2005 shall achieve a minimum application efficiency of 80 percent
141 by January 1, 2018; and

142 (3) Irrigation systems applying water withdrawn pursuant to all active permits issued
143 before 1991 shall achieve a minimum application efficiency of 80 percent by January 1,
144 2020.

145 (c) Notwithstanding subsection (b) of this Code section, the director may modify specified
146 active surface-water and ground-water withdrawal permits for farm use in the affected area
147 to require all mobile irrigation systems and solid-set irrigation sprinklers operating under
148 such permits to achieve application efficiencies of 60 percent or greater by the year 2020.
149 The schedule for achieving such efficiencies shall be as follows:

150 (1) Irrigation systems applying water withdrawn pursuant to all active permits issued
151 after 2005 shall achieve a minimum application efficiency of 60 percent by January 1,
152 2016;

153 (2) Irrigation systems applying water withdrawn pursuant to all active permits issued
154 from 1991 through 2005 shall achieve a minimum application efficiency of 60 percent
155 by January 1, 2018; and

156 (3) Irrigation systems applying water withdrawn pursuant to all active permits issued
157 before 1991 shall achieve a minimum application efficiency of 60 percent by January 1,
158 2020.

159 (d) Notwithstanding the application efficiency rates required in subsection (c) of this Code
160 section or any other provision of this Code section to the contrary, the minimum
161 application efficiency rate for mobile irrigation systems and solid-set irrigation sprinklers
162 applying water withdrawn pursuant to new permits shall be 60 percent.

163 (e) When considering any permit application for a new surface-water or ground-water
164 withdrawal for farm use in the affected area, the division shall require that the irrigation

165 system applying water withdrawn pursuant to any such permit has an application efficiency
 166 of at least 80 percent.

167 (f) The division may, in accordance with rules adopted by the board, provide for
 168 requirements pertaining to methods an applicant may utilize to demonstrate that the
 169 required application efficiency has been achieved.

170 (g) The division shall coordinate with any federal or state agencies offering incentive
 171 programs that support the purposes of this article, to identify opportunities to refine and
 172 target relevant programs as practicable and to assist permittees with achieving application
 173 efficiency requirements.

174 12-5-546.3.

175 (a) As used in this Code section, 'permittee' means any person holding a valid permit
 176 issued pursuant to Code Section 12-5-31.

177 (b) The state or any department, agency, or institution of the state may fund or invest in
 178 projects to augment stream flows in a portion or portions of the Flint River basin. All
 179 permittees with active surface-water withdrawal permits in the affected area downstream
 180 of a project specifically authorized to augment stream flows which the state has funded
 181 shall, in accordance with the board's rules and upon notification from the director, let the
 182 flow provided by the augmentation project pass their point of withdrawal.

183 (c) Such notification shall, at a minimum, inform the permittees that the upstream project
 184 is delivering augmented flows and the water provided by the project is not available for
 185 withdrawal.

186 (d) The director's notification shall contain notice of opportunity for a hearing and shall
 187 be served by certified mail, return receipt requested, to the most recent address provided
 188 by the permittee. Any permittee to whom such notification is directed shall comply
 189 therewith immediately, but shall be afforded a hearing within five business days of the
 190 director's receipt of a petition filed by such permittee. Based upon findings adduced at
 191 such hearing, the notification shall be modified, reversed, or continued by the director as
 192 he or she deems appropriate.

193 (e) In preparing such notification, the director may consider:

194 (1) The best available modeling and monitoring data for relevant locations and stream
 195 reaches;

196 (2) The appropriate duration of protection of augmented flows;

197 (3) The distance downstream for which protection of augmented flows is appropriate;

198 (4) The degree to which protection of augmented flows will assist in mitigating the
 199 effects of droughts and ensure sustainable, long-term access to water resources for
 200 existing and future water users; and

201 (5) Any other data or information the director deems relevant."

202 **SECTION 6.**

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