House Bill 1281 (AS PASSED HOUSE AND SENATE)

By: Representatives England of the 108th, McCall of the 30th, Roberts of the 154th, Hanner of the 148th, Ehrhart of the 36th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to provide that local governments may impose additional restrictions on outdoor water use for good cause shown; to provide for local emergency restrictions on outdoor water use; to provide an exemption from certain penalties; to provide that political subdivisions may be exempted from outdoor watering restrictions for good cause shown; to provide for automatic repeal; to prohibit placing certain restrictions on use of surface water for swimming pools; to prohibit placing certain restrictions on use of ground water for swimming pools; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by adding new Code sections to read as follows:

"12-5-7.

(a)(1) Any political subdivision of this state or local government authority may, upon application to and approval by the director of the Environmental Protection Division of the department for good cause shown, impose more stringent restrictions on outdoor water use during periods of drought than those applicable restrictions, if any, imposed by the state. For purposes of this subsection, 'good cause' means evidence sufficient to support a reasonable conclusion, considering available relevant information, that such additional restrictions are necessary and appropriate to avoid or relieve a local water shortage. A variance granted pursuant to this subsection shall be valid for such period as determined by the director.

(2) Paragraph (1) of this subsection shall not prohibit a political subdivision or local government authority from imposing more stringent restrictions on outdoor water use in case of an emergency which immediately threatens the public health, safety, or welfare;

provided, however, that such emergency restrictions shall be valid for a period not exceeding seven days unless a variance is granted by the director pursuant to paragraph (1) of this subsection. If the director determines that a political subdivision or local government authority is exercising emergency powers granted by this paragraph in a manner to circumvent the necessity of obtaining such a variance, he or she may suspend the emergency powers granted by this paragraph to such political subdivision or local government authority.

(3) In the event that a political subdivision of this state or local government authority is unable to satisfy reduced water consumption or other permit requirements under its water withdrawal or operating permit due to its inability under this subsection to impose more stringent restrictions on outdoor water use during periods of drought than those applicable restrictions, if any, imposed by the state, such political subdivision or local government authority shall be exempt from fines, sanctions, or other penalties applicable for such failure upon the approval of the director of the Environmental Protection Division of the department. The director shall consider all measures implemented by such political subdivision or local government authority prior to issuing fines, sanctions, or other penalties applicable, if any, for such failure. The political subdivision or local government authority shall notify the director of the Environmental Protection Division of the department within ten business days following the discovery of such failure. The director may request additional information at any time to substantiate such a claim.

(b) Any political subdivision of this state or local government authority may apply for and, upon approval by the director of the Environmental Protection Division of the department for good cause shown, shall be granted an exemption from nonstatutory outdoor watering restrictions or water use reductions imposed by the state. For purposes of this subsection, 'good cause' means evidence sufficient to support a reasonable conclusion, considering available relevant information, that such restrictions, reductions, or both are not necessary and appropriate to avoid or relieve a local water shortage. A variance granted pursuant to this subsection shall be valid for such period as determined by the director.

(c) The director shall render a decision on an application made by a political subdivision or local government authority under subsection (a) or (b) of this Code section within five business days after receipt thereof.

(d) This Code section shall stand repealed and reserved on July 1, 2010.

12-5-8.

Not later than June 30, 2009, the board shall adopt new rules and regulations relating to drought management consistent with this chapter and any state-wide water management plan under Article 8 of this chapter. Such rules and regulations shall include but not be

limited to provisions for a drought response committee; drought indicators and triggers; a drought declaration process; and state and local predrought mitigation strategies and drought response strategies. Such predrought mitigation strategies shall be designed to minimize the potential effects of drought. Such drought response strategies shall be measures or actions to be implemented during various stages of drought. Such rules and regulations shall replace any previous drought management plan adopted by the board and shall be revised from time to time as the board deems appropriate."

SECTION 2.

Said chapter is further amended in subsection (l) of Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm uses and monitoring, recording, and reporting water withdrawals, by deleting "and" at the end of paragraph (4) and adding a new paragraph to read as follows:

"(4.1) The use of surface water for any swimming pool shall be deemed not to be outdoor water use for purposes of any outdoor watering restrictions if failure to maintain the swimming pool would create unsafe, unsanitary, or unhealthy conditions affecting the public health or welfare; and "

SECTION 3.

Said chapter is further amended in Code Section 12-5-102, relating to emergency orders, hearing, and appeal, by adding a new subsection to read as follows:

"(e) The use of ground water for any swimming pool shall be deemed not to be outdoor water use for purposes of any outdoor watering restrictions if failure to maintain the swimming pool would create unsafe, unsanitary, or unhealthy conditions affecting the public health or welfare."

SECTION 4.

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

SECTION 5.

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