

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 449:

MOOT

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 44 and 46 of the Official Code of Georgia Annotated, relating to property
2 and public utilities and public transportation, respectively, so as to prohibit certain
3 restrictions on the installation, operation, or maintenance of private water wells for irrigation
4 purposes on real property; to prohibit covenants running with the land from prohibiting or
5 restricting property owners from installing, operating, or maintaining private water wells for
6 irrigation purposes on their property; to prohibit companies that provide water services
7 through certain water systems in this state from prohibiting or restricting customers of such
8 company from installing, operating, or maintaining private water wells for irrigation
9 purposes on such customers' property; to provide for statutory construction; to provide for
10 definitions; to provide an effective date; to provide for related matters; to repeal conflicting
11 laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in
15 Article 3 of Chapter 5, relating to covenants and warranties, by adding a new Code section
16 to read as follows:

17 "44-5-60.1.

18 (a) No covenant running with the land shall prohibit or restrict a property owner from
19 installing, operating, or maintaining a water well on such property owner's property that
20 exclusively provides water for irrigation purposes to such property, provided that such
21 water well does not provide water to any other parcel of land that is not owned by such
22 property owner and such property owner does not sell water from such water well or, in
23 exchange for consideration, authorize the use of such water well by any other person.

24 (b) Any provision in a covenant running with the land, or any subsidiary document
25 adopted pursuant to a covenant running with the land, that violates subsection (a) of this
26 Code section is declared to be contrary to public policy and shall be void and
27 unenforceable.

28 (c) It is the intent of the General Assembly that the provisions of this Code section shall
29 apply to any covenant running with the land, or any subsidiary document adopted pursuant
30 to a covenant running with the land, regardless of when such covenant running with the
31 land was created or became effective.

32 (d) Nothing in this Code section is intended to prevent the application of any provision of
33 law or regulation of any county, municipality, or consolidated government concerning the
34 installation, operation, or maintenance of water wells in this state."

35

SECTION 2.

36 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
37 transportation, is amended by revising Chapter 10, which is reserved, as follows:

38

"CHAPTER 10

39 46-10-1.

40 As used in this chapter, the term:

41 (1) 'Covered water system' means any water system that is owned and operated by a
42 private company and that provides water services by means of pipes or conduits to 2,000
43 or more customer service connections in this state. Such term shall not include any water
44 system that is owned or operated by the state or any political subdivision or authority
45 thereof.

46 (2) 'Surface water' means all rivers, streams, branches, creeks, ponds, tributary streams,
47 drainage basins, natural lakes, and artificial reservoirs and impoundments.

48 (3) 'Water services' means water services, sanitary sewer services, or both.

49 (4) 'Water system' means a system for the provision to the public of piped water for
50 human consumption that is sourced exclusively from surface water, sanitary sewer
51 services, or both. Such term includes but is not limited to any collection, treatment,
52 storage, and distribution facilities under the control of the operator of such system and
53 used primarily in connection with such system and any collection or pretreatment storage
54 facilities not under such control which are used primarily in connection with such system.

55 46-10-2.

56 (a) No company that owns a covered water system shall enter into or seek to enforce any
57 contractual provision that prohibits or restricts the ability of any customer of such company
58 who receives water services from such company through such covered water system from
59 installing, operating, or maintaining a water well on such customer's property that
60 exclusively provides water for irrigation purposes to such customer, provided that such
61 water well does not provide water to any parcel of land that is not owned by such customer
62 and such customer does not sell water from such water well or, in exchange for
63 consideration, authorize the use of such water well by any other person.

64 (b) Any contractual provision entered into by a company that owns a covered water system
65 that violates the provisions of subsection (a) of this Code section is declared to be contrary
66 to public policy and shall be void and unenforceable.

67 (c) It is the intent of the General Assembly that the provisions of this Code section shall
68 apply to any contractual provision entered into by a company that owns a covered water
69 system regardless of when such contractual provision was entered into or otherwise became
70 effective.

71 46-10-3.

72 No company that owns a covered water system shall prohibit any customer of such
73 company who receives water services from such company through such covered water
74 system from installing, operating, or maintaining, or discontinue the provision of water
75 services to such customer solely due to the installation, operation, or maintenance of, a
76 water well on such customer's property that exclusively provides water for irrigation
77 services to such customer; provided that such water well does not provide water to any
78 parcel of land that is not owned by such customer and such customer does not sell water
79 from such water well or, in exchange for consideration, authorize the use of such water
80 well by another person.

81 46-10-4.

82 Nothing in this chapter is intended to prevent the application of any provision of law or
83 regulation of any county, municipality, or consolidated government concerning the
84 installation, operation, or maintenance of water wells in this state. Reserved."

85 **SECTION 3.**

86 This Act shall become effective on July 1, 2025.

87 **SECTION 4.**

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