

WATER-RELATED LEGISLATION OF THE 2001-2002 TERM OF THE GEORGIA GENERAL ASSEMBLY

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Abstract. Compared to most terms of the Georgia General Assembly, the 2001-2002 legislative term saw relatively little water-related legislation but the importance of some of the legislation is likely to be far reaching. Two pieces of legislation passed during the 2001 legislative session should prove very significant in managing Georgia's water resources in the future. First is Senate Bill 130 which created the Metropolitan North Georgia Water Planning District to determine how the water challenges facing the metropolitan Atlanta region should be addressed. The second significant piece of legislation is Senate Resolution 142 which created the Joint Comprehensive Water Plan Study Committee and the Water Plan Advisory Committee. The study committee was given until September 2002 to finish its work. Consequently, a hold was placed on water-related legislation during the 2002 legislative session in order to give the study committee time to come forth with its recommendations. It is unclear at the time of this writing if legislators will focus on the water plan recommendations during the 2003 legislative session. The change in governors and composition of the General Assembly resulting from the November 2002 election, coupled with the current fiscal problems facing the state, may result in less focus on water. It is likely, however, that they will attempt to address some water issues, particularly relating to stormwater control and erosion and sedimentation.

INTRODUCTION

Although limited water-related legislation was enacted during the 2001-2002 legislative term, considerable interest in water was evident. This interest was spurred on by the drought that began in May 1998 and continued through the 2002 legislative session. The drought, combined with the rapid population growth experienced by the state, has created general agreement that Georgia

must plan carefully for managing water resources. During the 2001-2002 legislative term, two key pieces of legislation were passed that could have long-term implications for water management in Georgia. Senate Bill 130 created the Metropolitan North Georgia Water Planning District and Senate Resolution 142 created the Joint Comprehensive Water Plan Study Committee and the Water Plan Advisory Committee. In addition, several other pieces of legislation were enacted relating to water resources.

METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT

Georgia is one of the fastest growing states in the country. Census data show that Georgia grew in population by 26.4 percent during the decade of the 1990s, from about 6.5 million in 1990 to 8.2 million in 2000, or an increase of 1.7 million people during the 10 year period. About half of the state's population (4.1 million people) live in the metropolitan Atlanta region, an area with water limitations due to the small streams that form within the region, lack of natural lakes, and limited ground water due to hard, compact bedrock. The growth in the Atlanta region and increasing demands placed on the rivers that flow through the region were major factors contributing to the "water wars" relating to the Alabama-Coosa-Tallapoosa River Basin and the Apalachicola-Chattahoochee-Flint River Basin between Alabama, Florida and Georgia.

Concern over the water future of the metropolitan Atlanta region spurred the Metro Atlanta Chamber of Commerce and the Regional Business Coalition to create the Clean Water Initiative to evaluate the water situation and to develop options for how the region should address the water challenges facing it.¹ The recommendations of this 18 month effort served as the basis for legislation enacted during the 2001 legislative session. Senate Bill

130 created the Metropolitan North Georgia Water Planning District to:

- establish policy, create plans, and promote intergovernmental coordination for all water issues in the district;
- facilitate multijurisdictional water related projects; and
- enhance access to funding for water related projects among the local governments in the district area.

The major purpose of the district is to develop regional and watershed-specific plans for stormwater management, wastewater treatment, water supply, water conservation, and the general protection of water quality. Plan implementation will be the responsibility of the local governments within the district. Final plans for addressing stormwater, wastewater, and water supply and conservation are due in 2003. Information on the efforts of the district can be found at www.northgeorgiawater.com.

JOINT COMPREHENSIVE WATER PLAN STUDY COMMITTEE

Over the past 15 years, a number of major water issues have emerged in Georgia, including the “water wars” with Alabama and Florida, overdraft of the Upper Floridan Aquifer along the coast, and concern over maintaining adequate instream flows. In 1998 we published a report entitled, *Whose Water Is It? Major Water Allocation Issues Facing Georgia*, which looked at these water quantity concerns and how they related to each other and why they should be addressed in a comprehensive manner.² We then surveyed all 50 states to see how they were approaching water planning. Eight states have adopted comprehensive water management plans, but nearly half the states had either done so or were in the process or seriously considering developing comprehensive water management plans. We evaluated the eight existing state plans to see what we could learn from them, both in process and focus, that would be helpful if Georgia moved in this direction. In 2000, we published the report, *Developing a Comprehensive State Water Management Plan: A Framework for Managing Georgia’s Water Resources*.³

During the 2001 legislative session, SR 142 was passed which created the Joint Water Plan Study Committee and a 50 member Water Plan Advisory Committee. The focus of the study committee was twofold:

- develop the framework for the state comprehensive

water management plan; and

- address those water-related issues that need clarification for the water planning process to move forward.

The planning framework includes such decisions as who should be the lead agency in developing the plan; what should the plan cover; how long should it take to develop; and how much will it cost. Water-related issues needing clarification relate primarily to organizational structure and water rights.

During 2001, the study and advisory committees focused principally on water management philosophy and on identifying the water issues facing Georgia. The study committee adopted a vision statement, guiding principles for developing the plans, and water management goals for Georgia. They also adopted a list of 43 major water issues facing the state. The intent of identifying the major water issues was to cast the net broadly and to not have an error of omission. Then, based on this list of issues, which ones needed to be considered during the study committee process to enable the planning process to move forward.

In November 2001, the study committee narrowed the list of issues to three and created four working groups, one to develop the planning framework and three to evaluate issues relating to organizational structure, interbasin transfers of water, and water rights. The working groups were composed of half study committee members and half advisory committee members. The function of the working groups was to break into smaller groups to refine the issues and to identify options for addressing them. In addition, the working group approach enabled work to continue during the 2002 legislative session.

In May 2002, the working groups made preliminary reports to the study committee on their findings. They finalized their reports in June and presented the final reports to the study committee in July. The study committee adopted most of the preferred options identified by the working groups. We then drafted a report for the study committee and sent it out to them for review. The study committee met on August 1 and debated issues, primarily relating to water rights. We then revised the study committee report and again provided it to the committee members for review. The study committee held its final meeting on August 27, 2002, and adopted the report.

The *Final Report of the Joint Comprehensive Water Plan Study Committee* contains 33

recommendations to the Governor and General Assembly.⁴ Among the more significant recommendations are the following.

- vision statement, guiding principles and water management goals.
- a new Water Planning Branch should be created in the Environmental Protection Division to develop the plan;
- a Council on Water should be created, composed of the agencies that have water-related responsibilities, to increase communication, coordination and cooperation;
- legislation should be enacted to more fully control interbasin water transfers and to include both surface and ground water;
- irrigation water uses should be metered and farmers should report their water uses to the state;
- in fully allocated watersheds, voluntary reallocation of permits should be allowed if there are no significant adverse impacts on the water resources or other water users; and
- regional water planning and implementation should be encouraged.

Governor Barnes declared the 2003 legislative session to be the “water session.” However, with the election of Governor Purdue in November 2002, and the change in composition of the General Assembly, coupled with the state’s current fiscal problems, it is not clear, at the time of this writing, to what extent policy makers will focus on water during the 2003 legislative session. For more information on the study committee, advisory committee and working group actions, see www.civiog.uga.edu/water.

OTHER WATER LEGISLATION

Flint River Drought Protection

The drought that has plagued much of the Southeast since May 1998, has caused a wide-variety of problems, particularly relating to agricultural production and dwindling water supplies for certain communities and rural residents dependent on wells. Of particular concern has been the impact that irrigation water withdrawals might have on the Flint River system in Southwest Georgia. This karst region, where there is significant interplay between surface and ground water, is a major agricultural area of the state and is heavily dependent upon irrigation. To address the concerns in this region, the Flint River Drought Protection Act (HB 1362) was enacted during

the 2000 session of the General Assembly. This legislation calls for the creation of a fund to be used to pay some farmers within the basin not to irrigate during a drought period. During the 2001 legislative session, HR 17 was passed ratifying the rules promulgated by the Board of Natural Resources for administration and implementation of the Flint River Drought Protection Act.

Environmental Training and Education Authority

House Bill 375, passed during the 2001 session, creates the Georgia Environmental Training and Education Authority to enhance and expand the state’s ability to provide basic and advanced training and education and, where applicable, to certify persons relating to water and wastewater treatment.

OTHER RELATED LEGISLATION

Bioterrorism

Following the September 11, 2001, attacks, there has been increased concern over potential bioterrorism. In light of this, SB 385 was enacted in 2002 to establish several reporting requirements and expand the authority of certain state agencies and the Governor in dealing with bioterrorism. The act contains the following provisions:

- establishes the authority of the Commissioner of Agriculture to require the notice and reporting of animal diseases and syndromes;
- requires the reporting and notice to the Department of Human Resources (DHR) and a local county board of health of any cases of suspected bioterrorism or epidemic disease that may lead to a public health emergency;
- authorizes the DHR to promulgate rules and regulations for the management of a public health emergency and to prepare a public health emergency plan and draft executive order for the declaration of a public health emergency;
- requires health care providers, coroners, and medical examiners to report cases of bioterrorism and other conditions that pose a substantial risk of a public health emergency to the DHR and the appropriate county board of health; and
- establishes reporting requirements for pharmacists of increased or unusual prescriptions that may be related to bioterrorism.

The act further provides that DHR must investigate and study suspected cases and causes of bioterrorism and create rules and regulations regarding management of

public health emergencies and the vaccination and isolation and segregation of persons for the prevention thereof. Law enforcement officers must report cases of unusual illness or death to DHR. This act provides for the authority of the Governor, with the concurrence of the General Assembly, to call a state of emergency as a result of a public health emergency and compel the use of health care facilities to aid in the emergency response. It further provides for the Governor's authority to direct DHR to plan, coordinate and organize emergency responses and quarantine and vaccination programs. In addition, this act provides for legislative review of all rules and actions adopted relative to a public health emergency.

Hazardous Site Response Act Reauthorization

House Bill 1406 reauthorizes the Hazardous Sites Response Act until July 2003. The measure increases solid waste surcharge fees as well as hazardous waste generation, handling and reporting fees. This act also alters the current brownfields law by allowing limited liability for purchasers who redevelop and clean any properties to certain soil standards.

Hazardous Waste Sites

House Resolution 1111 proposes an amendment to the Georgia Constitution to authorize the General Assembly to provide by general law for the separate classification and taxation of properties on which there have been releases of hazardous waste, constituents, or substances into the environment so as to encourage cleanup, reuse, and redevelopment of such properties.

CONCLUSIONS

Compared to most terms of the Georgia General Assembly, the 2001-2002 legislative term saw relatively little water-related legislation. The legislation passed by the General Assembly, however, is likely to be significant. Two pieces of legislation passed during the 2001 legislative session should prove to have considerable impact on managing Georgia's water resources. Senate Bill 130 created the Metropolitan North Georgia Water Planning District to determine how the water challenges facing the metropolitan Atlanta region should be addressed and Senate Resolution 142 created the Joint Comprehensive Water Plan Study Committee and the Water Plan Advisory Committee. The study committee was charged with developing the framework for a

comprehensive state water management plan and addressing other issues necessary for the planning process to move forward. Due to the fact that the study committee was given until September 2002 to finish their work, a hold was placed on water-related legislation during the 2002 legislative session. Due to changes resulting from the November 2002 election, it is unknown at this time if the 2003 legislative session will focus on the recommendations of the study committee. It is anticipated, however, that the General Assembly may attempt to address some water issues, particularly relating to stormwater control and erosion and sedimentation.

REFERENCES

1. *Final Report of the Clean Water Initiative*, 2000. Metro Atlanta Chamber of Commerce and the Regional Business Coalition, Atlanta, GA.
2. James E. Kundell and Diana Tetens. 1998. *Whose Water Is It? Major Water Allocation Issues Facing Georgia*, Carl Vinson Institute of Government, University of Georgia, Athens, GA.
3. James E. Kundell, Terry A. DeMeo and Margaret Myszewski. *Developing a Comprehensive State Water Management Plan: A Framework for Managing Georgia's Water Resources*, Research Atlanta, Atlanta, GA.
4. *Final Report of the Joint Comprehensive Water Plan Study Committee*, 2002. Carl Vinson Institute of Government in Cooperation with the Office of the Governor and the Georgia General Assembly, Atlanta, GA.