

House Bill 1104

By: Representatives Smyre of the 135<sup>th</sup>, Buckner of the 137<sup>th</sup>, Hugley of the 136<sup>th</sup>, and Smith of the 133<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 12-7-17 of the Official Code of Georgia Annotated, relating to  
2 exemptions relative to the control of soil erosion and sedimentation, so as to remove certain  
3 exemptions; to amend Code Section 12-5-31.1 of the Official Code of Georgia Annotated,  
4 relating to applications, permits, and variances for public water supply reservoirs, so as to  
5 remove provisions relating to issuing affirmative variances from requirements for public  
6 water supply reservoirs; to amend Code Section 12-7-7 of the Official Code of Georgia  
7 Annotated, relating to permit or notice of intent required for land-disturbance activities,  
8 approval of application and issuance of permit, denial of permit, and bond requirement, so  
9 as to revise a cross-reference; to provide for related matters; to repeal conflicting laws; and  
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Code Section 12-7-17 of the Official Code of Georgia Annotated, relating to exemptions  
14 relative to the control of soil erosion and sedimentation, is amended by revising paragraphs  
15 (8) through (11) as follows:

16 "(8) Any project involving less than one acre of disturbed area; provided, however, that  
17 this exemption shall not apply to any land-disturbing activity within a larger common  
18 plan of development or sale with a planned disturbance of equal to or greater than one  
19 acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph,  
20 'state waters' excludes channels and drainageways which have water in them only during  
21 and immediately after rainfall events and intermittent streams which do not have water  
22 in them year round; provided, however, that any person responsible for a project which  
23 involves less than one acre, which involves land-disturbing activity, and which is within  
24 200 feet of any such excluded channel or drainageway must prevent sediment from  
25 moving beyond the boundaries of the property on which such project is located and  
26 provided, further, that nothing contained in this chapter shall prevent a city or county

27 which is a local issuing authority from regulating any such project which is not  
 28 specifically exempted by paragraph (1), (2), (3), (4), (5), (6), (7), or (9), ~~or (10)~~ of this  
 29 Code section; and

30 (9) Construction or maintenance projects, or both, undertaken or financed in whole or  
 31 in part, or both, by the Department of Transportation, the Georgia Highway Authority,  
 32 or the State Road and Tollway Authority; or any road construction or maintenance  
 33 project, or both, undertaken by any county or municipality; provided, however, that  
 34 construction or maintenance projects of the Department of Transportation or the State  
 35 Road and Tollway Authority which disturb one or more contiguous acres of land shall be  
 36 subject to the provisions of Code Section 12-7-7.1; except where the Department of  
 37 Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority  
 38 is a secondary permittee for a project located within a larger common plan of  
 39 development or sale under the state general permit, in which case a copy of a notice of  
 40 intent under the state general permit shall be submitted to the local issuing authority, the  
 41 local issuing authority shall enforce compliance with the minimum requirements set forth  
 42 in Code Section 12-7-6 as if a permit had been issued, and violations shall be subject to  
 43 the same penalties as violations by permit holders;.

44 ~~(10) Any land-disturbing activities conducted by any electric membership corporation~~  
 45 ~~or municipal electrical system or any public utility under the regulatory jurisdiction of~~  
 46 ~~the Public Service Commission, any utility under the regulatory jurisdiction of the~~  
 47 ~~Federal Energy Regulatory Commission, any cable television system as defined in~~  
 48 ~~Code Section 36-18-1, or any agency or instrumentality of the United States engaged~~  
 49 ~~in the generation, transmission, or distribution of power; except where an electric~~  
 50 ~~membership corporation or municipal electrical system or any public utility under the~~  
 51 ~~regulatory jurisdiction of the Public Service Commission, any utility under the~~  
 52 ~~regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable~~  
 53 ~~television system as defined in Code Section 36-18-1, or any agency or instrumentality~~  
 54 ~~of the United States engaged in the generation, transmission, or distribution of power~~  
 55 ~~is a secondary permittee for a project located within a larger common plan of~~  
 56 ~~development or sale under the state general permit, in which case the local issuing~~  
 57 ~~authority shall enforce compliance with the minimum requirements set forth in Code~~  
 58 ~~Section 12-7-6 as if a permit had been issued, and violations shall be subject to the~~  
 59 ~~same penalties as violations by permit holders; and~~

60 ~~(11) Public water system reservoirs."~~

61 **SECTION 2.**

62 Code Section 12-5-31.1 of the Official Code of Georgia Annotated, relating to applications,  
63 permits, and variances for public water supply reservoirs, is amended by repealing  
64 subsection (c).

65 **SECTION 3.**

66 Code Section 12-7-7 of the Official Code of Georgia Annotated, relating to permit or notice  
67 of intent required for land-disturbing activities, approval of application and issuance of  
68 permit, denial of permit, and bond requirement, is amended by revising paragraph (2) of  
69 subsection (d) as follows:

70 "(2) In a jurisdiction that is certified pursuant to subsection (a) of Code Section 12-7-8,  
71 half of any such fees levied shall be submitted by the applicant to the local issuing  
72 authority and half of such fees shall be submitted to the division; except that any and all  
73 fees due from an entity which is required to give notice pursuant to paragraph (9) ~~or (10)~~  
74 of Code Section 12-7-17 shall be submitted in full to the division, regardless of the  
75 existence of a local issuing authority in the jurisdiction. In a jurisdiction where there is  
76 no local issuing authority, the full fee shall be submitted to the division."

77 **SECTION 4.**

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