

House Bill 143

By: Representatives Dickey of the 134<sup>th</sup>, Smith of the 70<sup>th</sup>, Yearata of the 152<sup>nd</sup>, Greene of the 154<sup>th</sup>, Cannon of the 172<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water  
2 resources, so as to revise provisions regarding water-measuring devices for farm use of  
3 surface and ground water; to provide for related matters; to repeal conflicting laws; and for  
4 other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,  
8 is amended by revising paragraph (3) of subsection (b) and subsection (m.1) of Code  
9 Section 12-5-31, relating to regulated riparian rights to surface waters for general or farm  
10 use, permits for withdrawal, diversion, or impoundment, coordination with water plans,  
11 metering of farm use, interbasin transfers, and appeal procedures, as follows:

12 "(3)(A) Notwithstanding any other provision of this Code section to the contrary, a  
13 permit for the withdrawal or diversion of surface waters for farm uses shall be issued  
14 by the director to any person when the applicant submits an application which provides  
15 reasonable proof that the applicant's farm use of surface waters occurred prior to July  
16 1, 1988, and when any such application is submitted prior to July 1, 1991. If submitted

17 prior to July 1, 1991, an application for a permit to be issued based upon farm uses of  
18 surface waters occurring prior to July 1, 1988, shall be granted for the withdrawal or  
19 diversion of surface waters at a rate of withdrawal or diversion equal to the greater of  
20 the operating capacity in place for withdrawal or diversion on July 1, 1988, or, when  
21 measured in gallons per day on a monthly average for a calendar year, the greatest  
22 withdrawal or diversion capacity during the five-year period immediately preceding  
23 July 1, 1988. If submitted after July 1, 1991, or, regardless of when submitted, if it is  
24 based upon a withdrawal or diversion of surface waters for farm uses occurring or  
25 proposed to occur on or after July 1, 1988, an application shall be subject to evaluation  
26 and classification pursuant to subsections (e), (f), and (g) of this Code section, but a  
27 permit based upon such evaluation and classification shall be issued to ensure the  
28 applicant's right to a reasonable use of such surface waters. Any permit issued pursuant  
29 to this paragraph shall be conditioned upon the requirement that the permittee shall  
30 provide, on forms prescribed by the director, information relating to a general  
31 description of the lands and number of acres subject to irrigation and the permit; a  
32 description of the general type of irrigation system used; the source of withdrawal water  
33 such as river, stream, or impoundment; and pump information, including rated capacity,  
34 pump location, and power information.

35 (B) Permits applied for under this paragraph on or after April 20, 2006, for farm use  
36 in the Flint River basin shall have a term of 25 years and shall be automatically  
37 renewed at the original permitted capacity unless an evaluation by the division indicates  
38 that renewal at the original capacity would have unreasonable adverse effects upon  
39 other water uses. The division may renew the original permit at a lower capacity, but  
40 such capacity shall be based on the reasonable use of the permittee and evaluation of  
41 the resource.

42 (C) A permittee may apply to have a permit issued under this paragraph modified,  
43 amended, transferred, or assigned to subsequent owners of the lands which are the  
44 subject of such permit; provided, however, that:

45 (i) The division shall receive written notice of any such transfer or assignment;

46 (ii) Any modification in or amendment to the use or capacity conditions contained  
47 in the permit or in the lands which are the subject of such permit shall require the  
48 permittee to submit an application for review and approval by the director consistent  
49 with this Code section; and

50 (iii) The permittee may commence withdrawing water under the modified, amended,  
51 transferred, or assigned permit on the effective date stated on the revised permit for  
52 farm use; ~~and~~

53 ~~(iv) For all permits for which such modification, amendment, transfer, or assignment~~  
54 ~~is effective on or after April 20, 2018, and for which no water-measuring device is~~  
55 ~~installed, the permittee shall have one year from the updated effective date stated on~~  
56 ~~the revised permit for farm use to have an acceptable type of water-measuring device~~  
57 ~~installed, to have such device in operation at each point of permitted withdrawal, and~~  
58 ~~to notify the division in writing once the installation has occurred. The division shall~~  
59 ~~approve or disapprove the installation within 60 days of the date of notification. The~~  
60 ~~permittee shall be responsible for all associated costs.~~

61 (D) Nothing in this paragraph shall be construed as a repeal or modification of Code  
62 Section 12-5-46."

63 "(m.1)(1) The division shall have the duty of implementing a program of measuring farm  
64 uses of water in order to obtain clear and accurate information on the patterns and  
65 amounts of such use, which information is essential to proper management of water  
66 resources by the state and useful to farmers for improving the efficiency and effectiveness  
67 of their use of water, meeting the requirements of subsections (b) and (m) of this Code  
68 section, and improving water conservation.

69 (2) The division:

70 (A) May conduct its duties with division staff and may contract with other persons to  
71 conduct any of its duties;

72 (B) May receive and use state appropriations, gifts, grants, or other sources of funding  
73 to carry out its duties;

74 (C) Shall develop a priority system for the installation of devices for measurement of  
75 farm uses of water at the points of those withdrawals for which a permit was issued as  
76 of July 1, 2003. The division may refine the priority system from time to time based  
77 on the amount of funding received by the division, considerations regarding cost  
78 effectiveness, new technical information, changes in resource use or conditions, or  
79 other factors as deemed relevant by the director;

80 (D) Shall, on behalf of the state, contract for the purchase and installation of that subset  
81 of water-measuring devices according to the priority system required by this Code  
82 section, and no charge shall be made to the permittee for such costs. ~~However, when  
83 the division assesses the site or attempts to install such water-measuring devices and  
84 finds that the site lacks withdrawal or irrigation infrastructure, the division shall  
85 document such withdrawal or irrigation infrastructure conditions and notify the  
86 permittee in writing that a state funded water-measuring device or devices could not be  
87 installed and that a device or devices are still required. After the expiration of five  
88 years, such permittee shall be responsible for having an acceptable type of  
89 water-measuring device installed and placed into operation and all associated costs.  
90 The permittee shall notify the division in writing once the installation has occurred.  
91 The division shall approve or disapprove the installation within 60 days of the date of  
92 notification;~~

93 (E) Shall, at monthly intervals, read an appropriate proportion of water-measuring  
94 devices installed for measuring farm use of surface water and compile the collected data  
95 for use in meeting the purposes in paragraph (1) of this subsection, and the division

96 shall communicate in advance with private property owners to establish reasonable  
97 times for such readings. In the event that a permittee's water-measuring devices are  
98 selected for monthly readings, the permittee may choose to perform those readings and  
99 transmit that information to the division; and

100 (F) Shall issue an annual progress report on the status of water-measuring device  
101 installation.

102 (3) Any person whose permit for agricultural water use was issued before July 1, 2003,  
103 and who desires to install a water-measuring device at no cost to the state may do so,  
104 provided that the permittee shall have an acceptable type of water-measuring device  
105 installed and placed in operation at each point of permitted withdrawal and the permittee  
106 shall notify the division in writing once the installation has occurred. The division shall  
107 approve or disapprove the installation within 60 days of the date of notification.

108 (4) Any person who desires to commence a farm use of water for which a permit is  
109 issued after July 1, 2003, shall not commence such use prior to receiving approval from  
110 the division that such person has installed an acceptable type of water-measuring device  
111 installed ~~by the commission~~ at each point of permitted withdrawal. The permittee shall  
112 be responsible for all such costs.

113 (5) Employees, contractors, or agents of the division are authorized to enter upon private  
114 property at reasonable times and upon reasonable notice to conduct the duties of the  
115 division under this subsection.

116 (6) Regarding all permits for which a water-measuring device is installed, regardless of  
117 when the permit was issued, the division shall contract for the annual reading of such  
118 water-measuring devices. The division shall require each contractor conducting such  
119 annual readings to transmit complete and accurate data required by the division to the  
120 division annually.

121 (7) The division shall audit a subset of reported water-measuring device readings  
122 submitted by permittees for the purpose of understanding and improving the accuracy of  
123 such readings.

124 (8) The division shall contract for any maintenance, repair, or replacement of  
125 water-measuring devices installed pursuant to this Code section where maintenance,  
126 repair, or replacement is required to ensure that such water-measuring devices accurately  
127 reflect the amount of water used, and no charge shall be made to the permittee for such  
128 costs.

129 (9) If the division determines that the permittee or the permittee's employees, tenants,  
130 licensees, or agents have willfully dismantled, sold, relocated, or removed any  
131 water-measuring device installed pursuant to this Code section, the permittee may be  
132 subject to enforcement action by the division, including but not limited to imposition of  
133 civil penalties.

134 (10) Any reports of amounts of use for recreational purposes under this Code section  
135 shall be compiled separately from amounts reported for all other farm uses."

136 **SECTION 2.**

137 Said chapter is further amended by revising subsections (b) and (b.1) of Code  
138 Section 12-5-105, relating to regulated reasonable use of ground water for farm use, permits  
139 to withdraw, obtain, or utilize, metering, and related procedures, as follows:

140 "(b) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the  
141 contrary, permits to withdraw, obtain, or utilize ground waters for farm uses, as that term  
142 is defined in paragraph (5.1) of Code Section 12-5-92, whether for new withdrawals or  
143 under subsection (a) of this Code section, shall be governed as follows:

144 (1) Permits applied for under this Code section on or after April 20, 2006, for farm use  
145 within the Flint River basin shall have a term of 25 years and shall be automatically  
146 renewed at the original permitted capacity unless an evaluation by the division indicates

147 that renewal at the original capacity would have unreasonable adverse effects upon other  
148 water uses. The division may renew the original permit at a lower capacity, but such  
149 capacity shall be based on the reasonable use of the permittee and evaluation of the  
150 resource;

151 (2) A permittee may apply to have a permit issued under this Code section modified,  
152 amended, transferred, or assigned to subsequent owners of the lands which are the subject  
153 of such permit; provided, however, that:

154 (A) The division shall receive written notice of any such transfer or assignment;

155 (B) Any modification in or amendment to the use or capacity conditions contained in  
156 the permit or in the lands which are the subject of such permit shall require the  
157 permittee to submit an application for review and approval by the director consistent  
158 with the requirements of this part; and

159 (C) The permittee may commence withdrawing water under the modified, amended,  
160 transferred, or assigned permit on the effective date stated on the revised permit for  
161 farm use; and

162 ~~(D) For all permits for which such modification, amendment, transfer, or assignment~~  
163 ~~is effective on or after April 20, 2018, and for which no water-measuring device is~~  
164 ~~installed, the permittee shall have one year from the updated effective date stated on the~~  
165 ~~revised permit for farm use to have an acceptable type of water-measuring device~~  
166 ~~installed, to have such device in operation at each point of permitted withdrawal, and~~  
167 ~~to notify the division in writing once the installation has occurred. The division shall~~  
168 ~~approve or disapprove the installation within 60 days of the date of notification. The~~  
169 ~~permittee shall be responsible for all associated costs;~~

170 (3) Permits for farm use, after initial use has commenced, shall not be revoked, in whole  
171 or in part, for nonuse; except that the director may permanently revoke any permit under  
172 this Code section for farm use within the Flint River Basin applied for on or after  
173 April 20, 2006, if initial use for the purpose indicated on the permit application, as

174 measured by a flow meter approved by the division has not commenced within two years  
175 of the date of issuance of the permit unless the permittee can reasonably demonstrate that  
176 his or her nonuse was due to financial hardship or circumstances beyond his or her  
177 control;

178 (4) The director may suspend or modify a permit for farm use if he or she should  
179 determine through inspection, investigations, or otherwise that the quantity of water  
180 allowed would prevent other applicants from reasonable use of ground water beneath  
181 their property for farm use;

182 (5) During emergency periods of water shortage, the director shall give first priority to  
183 providing water for human consumption and second priority to farm use; and

184 (6) The importance and necessity of water for industrial purposes are in no way modified  
185 or diminished by this Code section.

186 (b.1)(1) The division shall have the duty of implementing a program of measuring farm  
187 uses of water in order to obtain clear and accurate information on the patterns and  
188 amounts of such use, which information is essential to proper management of water  
189 resources by the state and useful to farmers for improving the efficiency and effectiveness  
190 of their use of water, meeting the requirements of subsections (b) and (b.1) of this Code  
191 section, and improving water conservation.

192 (2) The division:

193 (A) May conduct its duties with division staff and may contract with other persons to  
194 conduct any of its duties;

195 (B) May receive and use state appropriations, gifts, grants, or other sources of funding  
196 to carry out its duties;

197 (C) Shall develop a priority system for the installation of devices for measurement of  
198 farm uses of water at the points of those withdrawals for which a permit was issued as  
199 of July 1, 2003. The division may refine the priority system from time to time based  
200 on the amount of funding received by the division, considerations regarding cost



201 effectiveness, new technical information, changes in resource use or conditions, or  
202 other factors as deemed relevant by the director;

203 (D) Shall, on behalf of the state, contract for the purchase and installation of that subset  
204 of water-measuring devices according to the priority system required by this Code  
205 section, and no charge shall be made to the permittee for such costs. ~~However, when  
206 the division assesses the site or attempts to install such water-measuring devices and  
207 finds that the site lacks the withdrawal or irrigation infrastructure, the division shall  
208 document such withdrawal or irrigation infrastructure conditions and notify the  
209 permittee in writing that a state funded water-measuring device or devices could not be  
210 installed and that a device or devices are still required. After the expiration of five  
211 years, such permittee shall be responsible for having an acceptable type of  
212 water-measuring device installed and placed into operation and all associated costs.  
213 The permittee shall notify the division in writing once the installation has occurred.  
214 The division shall approve or disapprove the installation within 60 days of the date of  
215 notification;~~

216 (E) Shall, at monthly intervals, read an appropriate proportion of water-measuring  
217 devices installed for measuring farm use of ground water and compile the collected data  
218 for use in meeting the purposes in paragraph (1) of this Code section, and the division  
219 shall communicate in advance with private property owners to establish reasonable  
220 times for such readings. In the event that a permittee's water-measuring devices are  
221 selected for monthly readings, the permittee may choose to perform those readings and  
222 transmit that information to the division; and

223 (F) Shall issue an annual progress report on the status of water-measuring device  
224 installation.

225 (3) Any person whose permit for agricultural water use was issued before July 1, 2003,  
226 and who desires to install a water-measuring device at no cost to the state may do so,  
227 provided that the permittee shall have an acceptable type of water-measuring device

228 installed and placed in operation at each point of permitted withdrawal and the permittee  
229 shall notify the division in writing once the installation has occurred. The division shall  
230 approve or disapprove the installation within 60 days of the date of notification.

231 (4) Any person who desires to commence a farm use of water for which a permit is  
232 issued after July 1, 2003, shall not commence such use prior to receiving approval from  
233 the division that such person has installed an acceptable type of water-measuring device  
234 installed by the commission at each point of permitted withdrawal. The permittee shall  
235 be responsible for all such costs.

236 (5) Regarding all permits for which a water-measuring device is installed, regardless of  
237 when the permit was issued, the division shall contract for the annual reading of such  
238 water-measuring devices. The division shall require each contractor conducting such  
239 annual readings to transmit complete and accurate data required by the division to the  
240 division annually.

241 (6) The division shall audit a subset of reported water-measuring device readings  
242 submitted by permittees for the purpose of understanding and improving the accuracy of  
243 such readings.

244 (7) Employees, contractors, or agents of the division are authorized to enter upon private  
245 property at reasonable times and upon reasonable notice to conduct the duties of the  
246 division under this subsection.

247 (8) The division shall contract for any maintenance, repair, or replacement of  
248 water-measuring devices installed pursuant to this Code section where maintenance,  
249 repair, or replacement is required to ensure that such water-measuring devices accurately  
250 reflect the amount of water used, and no charge shall be made to the permittee for such  
251 costs.

252 (9) If the division determines that the permittee or the permittee's employees, tenants,  
253 licensees, or agents have willfully dismantled, sold, relocated, or removed any  
254 water-measuring device installed pursuant to this Code section, the permittee may be

255 subject to enforcement action by the division, including but not limited to imposition of  
256 civil penalties.

257 (10) Any reports of amounts of use for recreational purposes under this part shall be  
258 compiled separately from amounts reported for all other farm uses.

259 (c) Nothing in this Code section shall be construed as a repeal or modification of Code  
260 Section 12-5-104."

261 **SECTION 3.**

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