

WATER RELATED ACTIONS OF THE GEORGIA GENERAL ASSEMBLY

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REFERENCE: *Proceedings of the 1993 Georgia Water Resources Conference*, held April 20 and 21, 1993, at The University of Georgia, Kathryn J. Hatcher, Editor, Institute of Natural Resources, The University of Georgia, Athens, Georgia.

INTRODUCTION

At the 1989 Water Resources Conference, this author presented a paper that described the major water related legislation considered during that session of the Georgia General Assembly. The purpose of this paper is to review legislative activity during the subsequent three legislative sessions. Since the 1993 session was not finished when this paper was written, it is not included.

Members of the Georgia General Assembly are elected for a two year term and during the two sessions in that term, over 4,000 pieces of legislation are considered. Bills and resolutions introduced during the first session remain alive for action during the second session. At the end of the second session, all bills and resolutions not enacted die. Most of the 4,000 bills and resolutions considered during a legislative term call for minor changes in statutory law. A few, however, are significant and move the state in a new direction or change the emphasis of state efforts. This discussion will focus on those major pieces of legislation considered during the three legislative sessions.

WATER RESOURCES AND WATER QUALITY

The West Point Lake Study Committee was created in 1989 to investigate the impact of wastewater discharges from the Atlanta metropolitan area on the Chattahoochee River and West Point Lake. One issue addressed by the study committee involved the impact of combined sewer overflows (CSOs) on water quality. Some older sewer systems in the state have combined sewer and stormwater collection systems. With increased sewer water due to population growth and increased runoff resulting from urbanization, these systems may become overloaded and raw sewage can be released to the streams. SB 605, passed in 1990, requires that the owner or operator of a CSO obtain a permit from the director of the Environmental Protection Division (EPD) of the Department of Natural Resources (DNR). The director can condition the permit on the achievement of effluent limitations in the shortest reasonable period of time. A companion bill, SB 606, requires the owner or operator of a CSO to devise and submit to the director a detailed plan to eliminate

sewage overflow or to treat sewage overflow so that all water flowing from the CSO into streams meets the standards of water purity and permit limits for publicly owned wastewater treatment facilities. A third related bill, SB 608, increased the civil penalty for violating the Georgia Water Quality Control Act from a maximum of \$25,000 per day to \$50,000 per day for a first violation. Subsequent violations within a twelve month period are subject to a \$100,000 per day penalty.

Interest was again evident in the 1991 session on the impact of the metropolitan Atlanta area on water quality in the Chattahoochee and other rivers. SB 196 built on the 1990 legislation to establish a schedule of compliance for CSOs to meet the water quality standards in the receiving stream or permit limits as defined by EPD. Additionally, HB 814 instituted more stringent phosphorus limits in discharges from wastewater treatment plants to the Chattahoochee River between Buford dam and West Point Lake.

Concern over water quality in lakes has been apparent for several years. Legislation was enacted in 1988 to regulate the use of marine toilets on boats on Lake Sidney Lanier. HB 1807 broadens the application of this provision to marine toilets on boats on several other lakes in the state (Allatoona, Blackshear, Clarks Hill, Hartwell, Oconee, Seminole, Sinclair, Russell, Walter F. George, and West Point). Vessels with marine toilets must be registered and designed for no discharge of sewage to the lake. SB 714 requires a comprehensive study of each lake over 1,000 acres in size prior to adopting lake water quality standards, and after these standards are established, EPD is required to monitor each lake on a regular basis to ensure that they reach and maintain the established goals.

SB 637, enacted in 1992, requires the development of river basin management plans for major rivers of the state (Altamaha, Chattahoochee, Coosa, Etowah, Flint, Ogeechee, Ocmulgee, Oconee, Oostanaula, Savannah, and others that EPD may designate by rules and regulations). Upon adoption of a plan by the Board of Natural Resources, all permitting and other activities conducted by DNR is to be consistent with the plan.

HB 1827, passed in 1990, requires the use of water conservation plumbing fixtures in construction in order to

decrease water usage. HB 1827 requires water conserving toilets and shower heads be installed in residential buildings after July 1, 1991 and in commercial buildings after July 1, 1992 and ties the eligibility for grants and loans to local governments that have adopted and enforced these provisions.

SOLID WASTE MANAGEMENT

When the federal Resource Conservation and Recovery Act was amended in 1984, Congress directed the Environmental Protection Agency (EPA) to develop standards for environmentally protective municipal solid waste landfill. These "Subtitle D" regulations were released by EPA in draft form in 1988 and in final form in 1991. The draft regulations sent a message to state and local officials that, in order to protect environmental quality, the cost of disposing of solid waste would increase dramatically. This realization, coupled with the difficulty in siting new landfills, resulted in local officials turning to their state legislatures to help them address their solid waste management concerns. Between 1988 and 1991, most states in the country enacted comprehensive solid waste legislation. The thrust of these laws was: (1) to adopt standards consistent with what the federal standards would likely require and (2) to institute mechanisms to reduce the amount of waste requiring disposal. The most significant piece of environmental legislation passed during the 1990 session of the General Assembly was SB 533, the Comprehensive Solid Waste Management Act. This law replaced the one enacted in 1972 and set forth requirements relating to solid waste disposal, waste reduction, and solid waste planning and education.

In 1992, mid-course corrections were made in the Comprehensive Solid Waste Management Act with the passage of HB 1386. A companion bill, HB 1385, creates a management program for scrap tires in Georgia. A fee of \$1.00 per tire is established with the funds to be used to clean up scrap tire piles, provide grants and loans to local governments to manage scrap tires, and to increase the recycling of scrap tires.

HAZARDOUS WASTE MANAGEMENT

Whereas considerable agreement was evident in developing the state policy toward solid waste management, less agreement has been evident on hazardous waste policy. The Hazardous Waste Management Authority, created in 1981, began efforts to site a treatment and disposal facility in 1987. This led to the selection of a site in Taylor County for the facility.

One persistent question with the proposed hazardous waste facility was whether the quantities of waste generated in the state warrant such a facility. This is especially

true if steps can be taken to reduce the amount of waste requiring treatment and disposal. Senate Bill 519, passed in 1990, requires large quantity generators, those who generate more than 2.2 pounds of acute hazardous waste or 2,200 pounds or more of hazardous waste on a monthly basis, to develop and biennially update a hazardous waste reduction plan.

As could be expected, considerable controversy arose over the selection of the site in Taylor County for the facility. An argument was made that the selection process was based on politics rather than technical considerations. The Authority was originally composed of state constitutional officers and appointed members and chaired by the Governor. To increase its technical capabilities, in 1990 the General Assembly enacted SB 652 to expand the membership of the Authority by adding three individuals with scientific expertise. Building on this change, SB 94 was passed in 1992 to remove all elected officials from the Authority and to replace them with individuals with technical expertise relating to hazardous waste management. This bill also authorized the Governor to appoint an executive director and established the priority of the state in hazardous waste management to be source reduction. The newly constituted authority then reviewed the process for the selection of the Taylor County site and decided that it was flawed. The Authority voted to terminate consideration of the Taylor County as the site for the proposed facility. Based on court decisions relating to interstate transport of waste, waste reduction efforts underway in the state, and changes in definitions as to what constitutes a hazardous waste, the Authority determined that it was questionable if Georgia needed a commercial hazardous waste facility and voted to not pursue siting such a facility until needed.

Arguably the most significant piece of environmental legislation during the 1992 session was HB 1394, the Hazardous Site Response Act, of the state superfund. Some 800 sites have been identified in the state that might contain hazardous substances, might pose a threat to public health and the environment, and might need remediation. The state, however, had no financing to undertake this effort, and the federal superfund program would likely clean up only a small portion of these sites. Consequently, this bill established a 50 cent per ton fee on solid waste and a graduated fee on hazardous waste to support the state fund to evaluate, prioritize, and clean up hazardous waste sites.

AIR QUALITY

In response to the federal Clean Air Act Amendments of 1990, two pieces of legislation were passed during the 1992 session: amendments to the Georgia Air Quality Act (HB 1439) and amendments to the motor vehicle emissions testing law (HB 1440). These bills are designed to

Table 1
Selected 1990 Water Related Legislation

HB 1827 (Act 1276): Revises water usage requirements for toilets, shower heads, faucets, and urinals in residential buildings after July 1, 1991, and in commercial buildings after July 1, 1992, and provides for legislative findings and purposes. The Act further provides that counties, municipalities, or authorities shall adopt and enforce such requirements in order to be eligible to receive certain state grants, loans, or permits.

HB 1957 (Act 1217): "Sewage Holding Tank Act"; regulates the use of holding tanks for the collection and disposal of sewage from flush toilets used at construction sites and special events.

SB 714 (Act 1274): Requires that water quality standards be established for each publicly owned lake in the state which maintains the lakes as safe and suitable for fishing and swimming and for use as a public water supply.

SB 696 (Act 1273): Revises the "Georgia Water Quality Control Act" so as to provide that on or after January 1, 1991, it shall be unlawful to sell at retail or to use in this state any cleaning agent containing phosphorus.

SB 606 (Act 1277): Requires any person who owns or operates a combined sewer overflow (CSO) in this state on July 1, 1990, to devise and submit to the director of the EPD a plan to eliminate or treat sewage overflows so that all water flowing from such CSO into the waters of this state shall meet certain standards of water purity and permit limits for publicly owned waste-water treatment facilities with CSOs.

SB 605 (Act 1272): Provides that after March 31, 1991, no person shall own or operate a combined sewer overflow (CSO) system in this state unless such person is issued a permit by the director of EPD.

SB 608 (Act 1275): Increases the civil penalty for violations of the "Georgia Water Quality Control Act" from \$25,000 per day to \$50,000 per day for each day during which such violation continues.

SB 563 (Act 1075): Amends the "Georgia Safe Dams Act of 1978," to remove on November 1, 1995 exemptions provided for certain dams over which a supervising federal agency has relinquished authority for the operation and maintenance of such dams, unless certain conditions are met.

SB 533 (Act 1106): Enacts the "Georgia Comprehensive Solid Waste Management Act" so as to provide for the control and management of solid waste to protect the

environment and the health of humans. The Act provides for rules and regulations controlling solid waste handling and prescribes the procedures to be followed and the information to be submitted in applying for permits. The Act also enacts the "Regional Solid Waste Management Authorities Act" and provides rules and regulations establishing criteria for the distribution of any state funds to assist local government agencies or authorities and establishing qualifications for municipal solid waste disposal facility operators and certification of such operators.

SB 519 (Act 1344): Provides that by March 1, 1992, large quantity hazardous waste generators shall develop hazardous waste reduction plans which establish specific performance goals for the reduction of hazardous waste expressed in numeric terms.

SB 652 (Act 1434): Provides for three additional members of the Georgia Hazardous Waste Management Authority to be appointed from the faculty or staff of the University System of the State of Georgia to be selected by the chancellor of the University System of Georgia.

Table 2

Selected 1991 Water Related Legislation

HB 643 (Act 555): Authorizes DNR to develop and promulgate by January 1, 1992, minimum standards and procedures for the protection of mountains and river corridors.

HB 814 (Act 443): Amends the "Georgia Water Quality Control Act" to provide that no water pollution control plant which discharges over one million gallons per day of waste water into the Chattahoochee River between Buford Dam and West Point Reservoir shall discharge more than 0.75 milligrams of phosphorus per liter of wastewater on a monthly average basis.

SB 196 (Act 506): Provides a schedule of compliance for plans and specifications for combined sewer overflow (CSO) owners to be approved by the director of EPD. The Act sets deadlines by which construction must be substantially complete and operational to meet the water quality standards in the receiving stream or permit limits as defined by the director.

HB 648 (Act 420): Provides that whenever a violation relating to the withdrawal, diversion, or impoundment of surface water occurs, the director of EPD shall by conference, conciliation, or persuasion attempt to convince the violator to cease such violation. Failing in such efforts, the director may issue an order to bring about the cessation of such violation.

HB 561 (Act 404): Amends the "Water Well Standards Act of 1985" to provide that the examination for a water well contractor's license shall relate to the applicant's knowledge of basic ground water and basic well construction. The Act provides for satisfactory proof to be provided by an applicant of two years' experience in constructing water wells. Failure to maintain a performance bond or irrevocable letter of credit is grounds for revocation of a license.

SB 97 (Act 556): Enacts the "Environmental Policy Act" to provide that, if it is determined by a responsible official of a government agency that any proposed land-disturbing activity by such government agency may significantly adversely affect the quality of the environment, the government agency responsible for such project shall prepare an environmental effects report. The Act provides for publication of the report and for public hearings.

SB 94 (Act 559): Changes the composition of the Georgia Hazardous Waste Management Authority to consist of two appointees of the Speaker of the House of Representatives, two appointees of the Lieutenant Governor, eight appointees of the Governor, and three appointees from

the faculty or staff of the University System of Georgia. The terms of office of the members of the authority shall be three years. The Governor shall appoint an executive director of the authority. The Act provides that priority in state hazardous waste management programs be given to source reduction.

HB 709 (Act 557): Amends "The Georgia Air Quality Act of 1978" to change provisions relating to the annual fees to be paid by an owner or operator to any stationary source as a condition of the issuance of any permit. The total amount of fees collected shall not be less than \$25 per ton of emissions allowed in the permit of each regulated pollutant.

SB 142 (Act 501): Defines the term "hazardous substance" and the term "reportable quantity." The Act requires immediate notification of EPD by any person with knowledge of any spill or release or any oil or hazardous substance in a quantity equal to or exceeding the reportable quantity or of an unknown quantity.

HR 19: Creates the Wetlands Conservation Study Committee.

Table 3
Selected 1992 Water Related Legislation

HB 1394 (Act 1249): Enacts the "Georgia Hazardous Site Response Act," which provides for corrective action for releases of hazardous wastes, hazardous constituents, and hazardous substances. The Act imposes fees upon generators of hazardous waste and imposes a surcharge of 50¢ per ton of solid waste placed in certain facilities, to be paid into the general fund of the state treasury. The Act establishes financial responsibility for cost of cleanup of hazardous waste releases. The Act provides for the reporting and the public recording of the existence of hazardous waste sites.

SB 725 (Act 1022): Broadly amends the "Shore Assistance Act of 1979." The Act changes the name of the Shore Assistance Committee to Shore Protection Committee. The Act changes certain provisions relating to application for permits for construction and other activity which alters or affects certain shoreline areas. The Act makes illegal the operation of a motor vehicle over certain dunes and beaches.

HB 1389 (Act 1250): Broadly amends the "Coastal Marshlands Protection Act of 1970." The Act changes certain provisions relating to construction affecting marshlands. The Act provides penalties for damage to any marshlands without a permit.

SB 637 (Act 1136): Provides for the development of river basin management plans for certain major rivers in this state. The Act provides for the contents of this plan and for local assistance with plan development. The Act provides that upon adoption of the plan by the Board of Natural Resources all permitting and other activities conducted by or under the control of DNR shall be consistent with the plan.

HB 1385 (Act 1428): Regulates the disposal of scrap tires, providing that scrap tires may be placed in a solid waste landfill only under certain conditions. The Act imposes an additional tax of \$1 on each new tire sold to be paid to the director of EPD to be used to abate nuisances caused by scrap tires and to give grants and loans as incentives to clean up scrap tire disposal sites.

HB 124 (Act 1397): Prohibits any manufacturer or distributor from offering for sale or otherwise distributing in this state any package or packaging component which contains certain enumerated heavy metals.

HB 1439 (Act 1389): Substantially revises the "Georgia Air Quality Act of 1978." The Act changes provisions relating to the permitting of certain facilities and equipment having an impact on air pollution. The Act changes

certain provisions relating to violations of air quality. The Act provides for a small business stationary source technical and environmental compliance program.

HB 1440 (Act 869): Broadens the application of the requirement for vehicle emission inspections and transfers to DNR the authority to provide for such inspections and to license inspection stations. The Act provides for proof of inspection and for the registration of vehicles subject to the Act.

HB 1497 (Act 792): Defines the term "spring water" and provides that any water which meets the definition of "spring water" may lawfully be labeled, sold, advertised, and otherwise represented as "spring water" or "natural spring water."

HB 1103 (Act 703): Defines the term "governmental entity." The Act provides that all local ordinances or resolutions imposing development exactions for system improvements on April 4, 1990, must be brought into conformance with OCGA Chapter 36-71 by November 30, 1992. The Act further provides that imposition of hook-up or connection fees by a governmental entity to pay for system improvements must be consistent with the capital improvement element of the comprehensive plan and must be approved by each county or municipality which appoints the governing body of such governmental entity.

HB 1390 (Act 1252): Authorizes the commissioner of DNR to remove any structures located upon tidewaters, navigable streams, and navigable rivers of this state which are used as places of habitation, dwelling, sojournment, or residence following the issuance of an administrative order by the commissioner and a hearing if requested by the owner of any such structure. The Act authorizes the commissioner to issue a five-year permit for certain structures which existed on February 1, 1992, upon a navigable river or navigable stream of the state.

bring Georgia into compliance with federal requirements and will have a significant impact on the metropolitan Atlanta region, which is a nonattainment area for ozone, as well as the entire state.

GROWTH MANAGEMENT/LAND USE

In 1991, newly elected Governor Miller addressed a longstanding concern of his with the passage of HB 643, the Mountain and River Corridor Protection Act. This law directs DNR to develop and promulgate minimum standards and procedures for the protection of higher peaks and ridges of the Georgia mountains and river corridors where the average flow is in excess of 400 cfs.

Also in 1991, the state Environmental Policy Act was passed requiring state agencies to prepare an environmental effects report and hold public hearings when the agency determines that a proposed land-disturbing activity planned by that agency may significantly adversely affect the quality of the environment.

Intense controversy has focused on wetlands since the release of the 1989 delineation manual by the four federal agencies involved in wetlands management. To consider what actions the state might take to address wetlands concerns, HR 19 was passed in 1991, to create the Wetlands Conservation Study Committee. The study committee concluded, however, that the state should not take action until the federal definitions and guidelines were adopted. Reports prepared by DNR for the study committee did recommend that the state consider assumption of the 404 wetlands permitting program and the adoption of a wetlands mitigation banking program.

The controversy over wetlands did not hamper attempts to amend the Coastal Marshlands Protection Act. HB 1389, enacted in 1992, amends the Act which had remained essentially unchanged since its passage in 1970. Additionally, SB 725 amends a related law, the Shore Assistance Act, now known as the Shore Protection Act. These two laws govern development in the coastal marshes and in the sand sharing system along the coast, respectively.

supported efforts to institute least-cost planning in the water supply decision making process. Additionally, legislation is anticipated relating to the land application of sludge, to allow vertical lifts for solid waste landfills, to institute energy conservation measures in state agencies, to address some concerns with the air quality statutes, and to increase procurement of products made from materials recovered from the solid waste stream by the state. The fate of these measures rests in the hands of the General Assembly which includes a large number of first term legislators.

WHERE ARE WE AND WHERE ARE WE HEADED

The 1992 legislative session was, from an environmental standpoint, the most significant session in the past two decades. Governor Miller presented the General Assembly with a well conceived environmental legislative package and with DNR effectively moved this legislation through the process. In comparison, 1993 appears to be a relatively quiet year for water-related legislation. One effort supported by the Governor, Lieutenant Governor, and Speaker is to create an Office of Pollution Prevention to reduce the amount of industrial chemical waste generated in the state. Additionally, the Lieutenant Governor has