

Senate Bill 445

By: Senators Kennedy of the 18th, Jones of the 25th and Lucas of the 26th

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to  
2 control of soil erosion and sedimentation, so as to authorize certain water and water and  
3 sewer authorities to be designated as local issuing authorities for land-disturbing activity  
4 permits; to revise a definition; to provide for related matters; to provide an effective date; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to control of soil  
9 erosion and sedimentation, is amended by revising paragraph (10) of Code Section 12-7-3,  
10 relating to definitions as follows:

11 "(10) 'Local issuing authority' means the governing authority of any county or  
12 municipality which is certified pursuant to subsection (a) of Code Section 12-7-8. Said  
13 term shall also include any water authority or water and sewer authority which has been  
14 authorized by local law to be responsible for storm-water management and to implement  
15 and enforce all related ordinances and regulations and, pursuant to an intergovernmental  
16 agreement with each governing authority of an applicable county or municipality,  
17 operates a storm-water utility and maintains the storm-water management system and soil  
18 erosion and sedimentation control permitting, inspection, and enforcement of such county  
19 or municipality."

20 **SECTION 2.**

21 Said chapter is further amended by revising subsections (b), (c), and (e) of  
22 Code Section 12-7-7, relating to permit or notice of intent required for land-disturbing  
23 activities, approval of application and issuance of permit, denial of permit, and bond  
24 requirement, as follows:

25 "(b) In those counties, ~~and municipalities, and service areas for water or water and sewer~~  
 26 authorities which are certified as local issuing authorities pursuant to subsection (a) of  
 27 Code Section 12-7-8:

28 (1) The application for such permit shall be made to and the permit shall be issued by the  
 29 governing authority of the county wherein such land-disturbing activities are to occur, in  
 30 the event that such activities will occur outside the corporate limits of a municipality;

31 (2) In those instances where such activities will occur within the corporate limits of any  
 32 municipality, the application for such permit shall be made to and the permit shall be  
 33 issued by the governing authority of the municipality in which such land-disturbing  
 34 activities are to occur; ~~and~~

35 (3) In those instances where such activities will occur within the service area of a water  
 36 authority or water and sewer authority, the application of such permit shall be made to  
 37 and the permit shall be issued by such authority in which such land-disturbing activities  
 38 are to occur within the authority's service area; and

39 ~~(3)~~(4) The local issuing authority shall conduct inspections and enforce the permits it  
 40 issues.

41 (c) In those counties, ~~and municipalities, and service areas for water or water and sewer~~  
 42 authorities which are not certified pursuant to subsection (a) of Code Section 12-7-8, the  
 43 terms of the state general permit shall apply, those terms shall be enforced by the division,  
 44 and no individual land-disturbing activity permit under this Code section will be required;  
 45 provided, however, that notice of intent shall be submitted to the division prior to  
 46 commencement of any land-disturbing activities under the state general permit in any of  
 47 such uncertified counties, ~~or municipalities, and service areas for water or water and sewer~~  
 48 authorities."

49 "(e) Except as provided in this subsection, no permit shall be issued pursuant to  
 50 subsection (b) of this Code section unless the erosion and sediment control plan has been  
 51 approved by the appropriate district as is required by Code Section 12-7-10. When the  
 52 ~~governing authority of a county or municipality jurisdiction or entity that is certified~~  
 53 pursuant to subsection (a) of Code Section 12-7-8 lying within the boundaries of the district  
 54 demonstrates capabilities to review and approve an erosion and sediment control plan and  
 55 requests an agreement with the district to conduct such review and approval, the district,  
 56 with the concurrence of the commission, shall enter into an agreement which allows the  
 57 ~~governing authority jurisdiction or entity that is certified pursuant to subsection (a) of Code~~  
 58 Section 12-7-8 to conduct review and approval without referring the application and plan  
 59 to the district, if such ~~governing authority jurisdiction or entity that is certified pursuant to~~  
 60 subsection (a) of Code Section 12-7-8 meets the conditions specified by the district as set  
 61 forth in the agreement. A district may not enter into an agreement authorized in this Code

62 section with ~~the governing authority of any county or municipality which~~ any jurisdiction  
 63 or entity that is not certified pursuant to subsection (a) of Code Section 12-7-8."

64 **SECTION 3.**

65 Said chapter is further amended by adding a new paragraph to subsection (a) and revising  
 66 subsections (b) through (d) of Code Section 12-7-8, relating to certification of locality as  
 67 local issuing authority, periodic review, procedure for revoking certification, and  
 68 enforcement actions, as follows:

69 "(4) If a local issuing authority certified by the director under paragraph (1) of this  
 70 subsection has within its jurisdiction an area served by a water authority or water and  
 71 sewer authority which has been authorized by local law to be responsible for storm-water  
 72 management and to implement and enforce all relevant ordinances and regulations and,  
 73 pursuant to an intergovernmental agreement with the governing authority of a county or  
 74 municipality, operates a storm-water utility and maintains the storm-water management  
 75 system and soil erosion and sedimentation control permitting, inspection, and  
 76 enforcement within such county or municipality, such water authority or water and sewer  
 77 authority may, in the sole discretion of the director, be certified as the local issuing  
 78 authority for the county or municipality which it serves.

79 (i) In the event that a water authority or water and sewer authority serves more than  
 80 one county or municipality that is a local issuing authority certified by the director  
 81 under paragraph (1) of this subsection, such water authority or water and sewer  
 82 authority must have authority to implement and enforce all relevant ordinances and  
 83 regulations from and an intergovernmental agreement with every applicable county  
 84 or municipality before the director may certify such water authority or water and  
 85 sewer authority as a local issuing authority for any county or municipality which it  
 86 serves.

87 (ii) In the event that a water authority or water and sewer authority serves less than  
 88 an entire county or municipality that is a local issuing authority certified by the  
 89 director under paragraph (1) of this subsection, the intergovernmental agreement  
 90 described under this paragraph shall specify the jurisdictional boundaries within  
 91 which the water authority or water and sewer authority shall act as the local issuing  
 92 authority."

93 (b) The districts or the commission or both shall review semi-annually the actions of  
 94 ~~counties and municipalities~~ jurisdictions and entities which have been certified as local  
 95 issuing authorities pursuant to subsection (a) of this Code section. The districts or the  
 96 commission or both may provide technical assistance to any ~~county or municipality~~  
 97 jurisdiction or entity for the purpose of improving the effectiveness of the ~~county's or~~

98 ~~municipality's jurisdiction's or entity's~~ erosion and sedimentation control program. The  
 99 districts or the commission shall notify the division and request investigation by the  
 100 division if any deficient or ineffective local program is found.

101 (c) The board, on or before December 31, 2003, shall promulgate rules and regulations  
 102 setting forth the requirements and standards for certification and the procedures for  
 103 decertification of a local issuing authority. The division may periodically review the  
 104 actions of ~~counties and municipalities~~ jurisdictions and entities which have been certified  
 105 as local issuing authorities pursuant to subsection (a) of this Code section. Such review  
 106 may include, but shall not be limited to, review of the administration and enforcement of  
 107 and compliance with ~~a governing authority's~~ the applicable ordinances and regulations and  
 108 review of conformance with an agreement, if any, between the district and the ~~governing~~  
 109 local issuing authority. If such review indicates that the ~~governing authority of any county~~  
 110 ~~or municipality~~ jurisdiction or entity certified pursuant to subsection (a) of this Code  
 111 section has not administered, enforced, or complied with its ordinances or regulations or  
 112 has not conducted the program in accordance with subsection (e) of Code Section 12-7-7,  
 113 the division shall notify ~~the governing authority of the county or municipality~~ that  
 114 jurisdiction or entity in writing. The ~~governing authority of any county or municipality~~  
 115 jurisdiction or entity so notified shall have 90 days within which to take the necessary  
 116 corrective action to retain certification as a local issuing authority. If the ~~county or~~  
 117 ~~municipality~~ jurisdiction or entity does not take necessary corrective action within 90 days  
 118 after notification by the division, the division shall revoke the certification of the ~~county~~  
 119 ~~or municipality~~ jurisdiction or entity as a local issuing authority.

120 (d) The director may determine that the public interest requires initiation of an  
 121 enforcement action by the division. Where such a determination is made and the local  
 122 issuing authority has failed to secure compliance, the director may implement the board's  
 123 rules and seek compliance under provisions of Code Sections 12-7-12 through 12-7-15.  
 124 For purposes of this subsection, enforcement actions taken by the division pursuant to  
 125 Code Sections 12-7-12 through 12-7-15 shall not require prior revocation of certification  
 126 of the ~~county or municipality~~ jurisdiction or entity as a local issuing authority."

127 **SECTION 4.**

128 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 129 without such approval.

130 **SECTION 5.**

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