



# **GOVERNOR'S WATER SUPPLY PROGRAM**

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**REPORT OF THE WATER SUPPLY TASK FORCE**

**DECEMBER 2011**



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# GOVERNOR'S WATER SUPPLY PROGRAM

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## REPORT OF THE GOVERNOR'S WATER SUPPLY TASK FORCE

### GOVERNOR'S WATER SUPPLY PROGRAM

#### EXECUTIVE ORDER

On January 25, 2011, Gov. Nathan Deal issued an executive order<sup>1</sup> charging the Georgia Environmental Finance Authority (GEFA) with developing and implementing the Governor's Water Supply Program (GWSP). The purpose of the GWSP is to assist local governments in developing new sources of water supply adequate to meet future water needs. In the executive order, the governor stated that an adequate supply of clean and affordable water is vital to Georgia's economic well-being and sustaining Georgia's high quality of life. In addition, the governor recognized that communities across the state face short- and long-term water supply challenges and considerable constraints in financing critical water infrastructure projects in today's economic environment. The governor directed GEFA to convene a Water Supply Task Force (WSTF) to provide expert guidance in developing the GWSP and to ensure interagency cooperation in GWSP implementation.

#### MEMBERS OF THE WATER SUPPLY TASK FORCE

The governor's executive order provided that the WSTF include representatives of at least the following entities: Georgia Department of Natural Resources, Georgia Environmental Protection Division, Georgia Department of Community Affairs, Georgia State Financing and Investment Commission, and State Properties Commission. In addition, the governor gave GEFA discretion to enlist additional key stakeholders. Consistent with the executive order, the membership of the WSTF consists of representatives of the following state agencies:

- Georgia Department of Natural Resources, Commissioner Mark Williams
- Georgia Environmental Protection Division (EPD), Director Allen Barnes
- Georgia Department of Community Affairs (DCA), Commissioner Mike Beatty
- Georgia State Financing and Investment Commission, Financing and Investment Division Director Susan Ridley
- State Properties Commission, Executive Director Steve Stancil
- Georgia Soil and Water Conservation Commission, Executive Director Brent Dykes

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<sup>1</sup> A copy of the Governor's Executive Order is attached as **APPENDIX A** to this report.

- Georgia Department of Agriculture, Commissioner Gary Black

In discharging their duties, the members of the WSTF worked cooperatively to develop the most effective water supply program possible. Members attended scheduled meetings (or appointed designees to attend in their absence), and directed the development of this report for submission to the governor. The WSTF was divided into two subcommittees: 1) a Technology Subcommittee focusing on water supply technologies, proposed and existing project locations, and project evaluations; and 2) a Finance Subcommittee focusing on the funding options identified by the governor in the executive order for financing water supply projects.

#### **MISSION OF THE WATER SUPPLY TASK FORCE**

The WSTF was charged with guiding the development and implementation of the GWSP by providing expert guidance in program development and ensuring interagency coordination in program implementation. The WSTF developed this report to provide a framework for implementing the GWSP.

In order to accomplish its goals, the WSTF sought to complete the following tasks: 1) enumerate the key challenges to developing new water supply facilities and identify the most effective solutions to those challenges; 2) assess project financing options; 3) explore opportunities to leverage additional project financing through public-private partnerships; and 4) develop a project selection system for water supply projects.

#### **WORK OF THE WATER SUPPLY TASK FORCE**

The WSTF and its subcommittees held meetings and developed the GWSP between March 2011 and September 2011.<sup>2</sup> All meetings of the WSTF and its subcommittees were open to the public and held at public facilities in various locations throughout the state. GEFA launched a website ([www.georgiawatersupply.org](http://www.georgiawatersupply.org)) specifically dedicated to posting advance notice of WSTF meetings and meeting materials, and taking public comments and questions regarding WSTF activities. Advance notice of all WSTF and subcommittee meetings and all meeting materials were published on the GWSP website. Voting at WSTF and subcommittee meetings was conducted on the basis of a simple majority of members present; however, a quorum of five members (or their designees) was required. No meeting lacked a quorum.

The work of the WSTF and its subcommittees consisted primarily of the following: discussing current water supply issues and challenges in Georgia; reviewing the status of ongoing and proposed water supply projects; developing a project selection system; and developing specific recommendations for available financing methods. The WSTF and its subcommittees sought and received input from key stakeholders, including city and county government officials, state legislators, the leaders of the Regional Water Planning Councils, representatives from the Association County Commissioners of Georgia (ACCG) and the Georgia Municipal Association (GMA), private

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<sup>2</sup> The schedule of the WSTF and its subcommittees is attached as **APPENDIX B** to this report.

citizens and companies, and others. In addition, the WSTF obtained advice and recommendations from legal and financial experts.

The WSTF and its committees sought public input throughout the process of conducting its work and provided opportunities for public comments at each meeting. Interested stakeholders were encouraged to take advantage of the public comment period during each meeting by making formal presentations and sending written comments to the WSTF through the GWSP website.<sup>3</sup>

A draft version of this report was made available to the public on November 16, 2011. The WSTF accepted written public comments on the initial draft report between November 16, 2011, and December 5, 2011. Following the public comment period, a revised draft was prepared and delivered to the WSTF on December 9, 2011.

### **OVERVIEW OF THE GOVERNOR'S WATER SUPPLY PROGRAM FUNDING SOURCES**

In his 2011 State of the State Address, Gov. Deal announced a commitment of \$300 million over four years for reservoir and water supply development. The governor's FY 2012 budget, as passed by the General Assembly, authorizes the issuance of state of Georgia general obligation bonds in the amount of \$45,750,000 to fund reservoir and water supply projects, and the GWSP budget anticipates similar annual commitments of bond funding in each of the next three fiscal years (FY 2013 – FY 2015). Of the total amount of GWSP bonds authorized in the FY 2012 budget, \$25 million will be available through DCA and \$20,750,000 will be available through GEFA. The FY 2012 funding will be added to \$28,500,000 currently held by GEFA in the Georgia Reservoir and Water Supply Fund. GEFA anticipates issuing approximately \$88,500,000 in revenue bonds (or some other financing vehicle) to fund the balance of the governor's \$300 million commitment.<sup>4</sup>

GWSP project financing available from DCA will be in the form of state direct investment. GWSP project financing available from GEFA will be in the form of low-interest loans. The WSTF, and in particular the Finance Subcommittee, carefully examined each funding source to determine how best to coordinate the use of such funding to provide viable financing options for local governments. For example, in determining the appropriate use of state direct investment, the WSTF heard from legal experts about how state general obligation bond funds may be used to fund local government projects. In evaluating appropriate financing terms for low-interest loans, the WSTF received detailed analyses conducted by financial experts of the impact that varying loan terms may have on the prospective borrowers and the long-term viability of the loan program at GEFA. The WSTF recognized that GEFA, in administering the GWSP, must strike a careful balance between providing attractive financing terms for local governments and maintaining adequate capacity in the loan funds to provide financing for future projects.

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<sup>3</sup> A summary of the public comments received by the WSTF is included in **APPENDIX C** to this report.

<sup>4</sup> A table outlining the GWSP funding sources is attached as **APPENDIX D** to this report.

## **GEORGIA WATER RESOURCE PLANNING**

### **BACKGROUND**

While Georgia normally enjoys abundant rainfall, ranging from more than 70 inches per year in the mountains to approximately 46 inches per year in the piedmont region, and boasts abundant surface and ground water resources, the state still faces both short- and long-term water supply challenges. Population and economic activity have increased substantially over the last 50 years, particularly in the piedmont region and along the coast. Additionally, south Georgia has seen increased water demand for agricultural irrigation. In response, the state continues to plan for meeting future demands for water supply.

Intermittently, episodes of drought stress the state's water supplies. Georgia weathered severe droughts in 1999-2002 and in 2007-2008. The droughts saw stream, aquifer and lake levels across Georgia reach historic lows and heightened the tension between water users inside and outside of the state. Concurrent with the work on this report, sections of southwest Georgia are experiencing exceptional drought and low groundwater levels in some areas.

Over the past two decades, Georgia has responded to these water supply challenges through increasingly comprehensive water planning efforts. The following sections provide a brief summary of these efforts.

### **WATER PLANNING EFFORTS**

#### **METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT**

In 2001, the General Assembly created the Metropolitan North Georgia Water Planning District (Metro District), a regional water planning body charged with comprehensive water resource management for the metropolitan Atlanta area. The membership of the Metro District consists of 15 counties. The Metro District administers three distinct, but integrated, water management plans, which are updated every five years: a wastewater plan, a watershed plan and a water supply plan. All affected local governments in the Metro District are required to comply with best practices related to water supply, water conservation, and wastewater and stormwater management.

#### **GEORGIA COMPREHENSIVE STATE-WIDE WATER MANAGEMENT PLAN**

In 2004, the General Assembly passed the Comprehensive State-wide Water Management Planning Act, which assigned EPD with responsibility for the preparation of a statewide water plan with oversight from the Georgia Water Council. The Georgia Water Council consisted of representatives from several state agencies and four key members of the General Assembly. The Council and EPD coordinated a comprehensive public process that culminated in the ratification of the Georgia Comprehensive State-wide Water Management Plan (State Water Plan) by the Georgia General Assembly and former Gov. Perdue in 2008.

The State Water Plan established guiding policies and implementation actions for water planning and mandated extensive public involvement. The State Water Plan called for integrated water management (i.e. linking quality and quantity), a comprehensive assessment of water resources in Georgia, identification of gaps between future water needs and availability, and regional water planning. The plan established 10 water planning regions and their corresponding water planning councils.

Each of the 10 water planning regions created by the State Water Plan developed a regional water plan based on the resource assessments and water demand forecasts for its region. The recommended regional plans were submitted to EPD by September 30, 2011. The draft regional plans contain recommendations for water management practices to meet future needs. Upon adoption by EPD, the regional plans will guide decisions regarding permits.

### **GEORGIA WATER SUPPLY ACT OF 2008**

In 2008, the General Assembly passed the Water Supply Act, which tasked GEFA with responsibilities and powers related to water supply project development in the state. In particular, the act required that GEFA establish the Georgia Reservoir and Water Supply Fund and conduct a study on feasible sites for water supply reservoirs in the state. Additionally, the act authorized the water division at GEFA to assist, in coordination with EPD, local governments with the reservoir and water supply permitting process. The water division may also plan, design, acquire, construct, operate, manage and maintain new reservoirs on behalf of local governments. In tandem with the Georgia Fund (GEFA's state-funded loan program), the Georgia Reservoir and Water Supply Fund is available to provide loans to local governments for projects such as system interconnections, new and rehabilitated wells, reservoir modifications for water supply purposes, and the construction of new water supply reservoirs.

Consistent with the Water Supply Act, GEFA published the Georgia Inventory and Survey of Feasible Sites for Water Supply Reservoirs in October 2008. The study screened existing reservoirs for their potential to be expanded and identified possible sites for new reservoirs based on the existing literature. The study highlighted 16 current water supply reservoirs that showed potential for expansion. Similarly, the Georgia Soil and Water Conservation Commission conducted a study of watershed dams across the state and identified 20 dams with a high potential for providing additional yield if expanded. The studies provided valuable background information to the WSTF on potential water supply projects and existing reservoirs.

### **COURT DECISIONS AND CONTINGENCY PLANNING**

In 2009, U.S. District Court Judge Paul A. Magnuson ruled that the U.S. Army Corp of Engineers lacked the authority to operate Lake Lanier for water supply and that Congressional approval was required for such use. In addition, Judge Magnuson ordered that all water withdrawals be frozen at then-current levels for three years or until Congressional authorization was given or some other resolution was reached. Pursuant to the ruling, in the event the U.S. Congress did not approve a reallocation within that period, water withdrawals from Lake Lanier would revert to a

baseline of operation equal to mid-1970s levels of use. In response to the ruling, former Gov. Sonny Perdue created the Governor's Water Contingency Task Force (Water Contingency Task Force) to investigate a range of options for water supply in the event that access to Lake Lanier for water supply was denied. The Water Contingency Task Force concluded that no other water supply sources could replace Lake Lanier and short-term water supply solutions would be very expensive. The Water Contingency Task Force also concluded that intermediate-term (targeting a 2020 horizon) solutions would be costly but more practical and affordable. Intermediate solutions included aggressive water conservation and the development of new water supply projects, especially expansion of several smaller regional reservoirs.

On June 28, 2011, a three-judge panel of the 11<sup>th</sup> U.S. Circuit Court of Appeals overturned Judge Magnuson's decision relating to Lake Lanier. In the decision, the Court of Appeals determined that one of the purposes of Lake Lanier was water supply for the metropolitan Atlanta area and that the U.S. Army Corps of Engineers has the authority to determine the appropriate allocation of water for water supply purposes. The Court of Appeals also set aside Judge Magnuson's deadline for Congressional action, and instead gave the U.S. Army Corps of Engineers one year from the date of its decision to make a final determination of water allocation from Lake Lanier. In September 2011, the Court affirmed the three-judge decision and denied Florida and Alabama's appeal for a re-hearing by the full court.

#### **WATER STEWARDSHIP ACT AND WATER SYSTEM INTERCONNECTION, REDUNDANCY AND RELIABILITY ACT**

Consistent with the Water Contingency Task Force's recommendations and the core principles of the State Water Plan (which recognized water conservation as an important water quantity management practice), the General Assembly supported aggressive action on water conservation with the passage of the Water Stewardship Act of 2010. The law required local governments to adopt or amend ordinances to restrict outdoor watering (which may be more restrictive than state requirements), enforce low-flow plumbing codes for new construction permitted after July 1, 2012, require sub-metering of new multi-unit residential and some commercial water users after July 1, 2012, and conduct annual water loss audits.

Also in 2010, the General Assembly passed the Water System Interconnection, Redundancy and Reliability Act (Water Interconnection Act) to explore the potential of optimizing water supply through the interconnection of water systems. The primary objective of the Water Interconnection Act is to complete a thorough and detailed engineering study that develops an emergency water supply plan for all qualified water systems within the Metropolitan North Georgia Water Planning District. GEFA completed the plan, consistent with the Water Interconnection Act, in September 2011.

## **SENATE BILL 122**

During the 2011 legislative session, the General Assembly passed Senate Bill 122, which provides authorization for certain types of local government contracts relating to water supply projects and encourages development of public-private partnerships.

## **CHALLENGES TO DEVELOPING WATER SUPPLY FACILITIES**

### **ASSESSING THE CHALLENGES**

As previously described, the WSTF and its subcommittees sought and received input from key stakeholders, including city and county government officials with experience developing water supply projects. A panel of local government officials was invited to address the Technology and Finance Subcommittees at a joint meeting held on May 26, 2011. Additionally, in-person and telephone interviews were conducted with other key stakeholders, including private consulting firms and representatives of the investment banking and legal communities. Based on the testimonials, interviews and the collective experience of the WSTF members, the WSTF recognized several key challenges to developing new water supply facilities in the state. The challenges can be grouped into two general categories: 1) length and complexities of the water supply process and permitting requirements; and 2) project expense and availability of financing.

### **LENGTH AND COMPLEXITIES OF THE WATER SUPPLY PROCESS AND PERMITTING REQUIREMENTS**

The WSTF identified several challenges relating to the complexities of the water supply process and permitting requirements. It is not uncommon for the entire process of permitting, funding and construction to take more than 10 years. According to local government officials, a significant reason for the length of the overall process is the delay that occurs during the federal permitting process. The local government officials noted that they often have little to no influence in the federal permitting process and are often unfamiliar with or lack expertise in the full extent and details of the state and federal permitting process. In addition, hiring a private consultant to assist in the process often adds to the cost of an already expensive project. Finally, there is a perceived lack of coordination between, and among, state and federal agencies. Some local officials are unaware or unfamiliar with existing support programs at the state and federal level.

In addition to permitting delays, projections of water need may change with economic conditions, resulting in either excess permitted capacity or the need to increase permitted capacity. Finally, political, economic and social competition between neighboring communities, or between cities and counties, often discourages collaboration in the development of water supply projects. Established water departments may be resistant to cooperate with adjoining systems or communities.

## **PROJECT EXPENSE AND AVAILABILITY OF FINANCING**

The WSTF identified several challenges relating to project expense and availability of financing. The WSTF acknowledged, generally, that water supply projects are expensive, can frequently run over-budget, and are often challenging to finance. For example, large water supply projects, such as reservoirs, require investment of substantial amounts of funding long before projects are operational and producing revenue. Financing the early costs can be challenging for local governments because local governments are required to invest significant capital in the planning and permitting process with no return on the investment during that time.

Funding for water supply projects is most commonly obtained through the issuance of long-term bonds by local governments or through GEFA financing. Nonetheless, incurring long-term debt for projects designed to meet future anticipated use is often politically unpopular, making elected officials reluctant to approve the issuance of such debt. If bonds are issued to finance projects, the ability of a local government to repay the bonds may be affected by the economy or by changes in water use patterns such as those that emphasize (or mandate) water conservation and thereby reduce water sales. Additionally, local governments often find it politically difficult to raise water rates to levels sufficient to pay operations and necessary capital investments. Finally, the WSTF recognized that there are few financial or other incentives designed to encourage local government cooperation. In fact, certain policies directly discourage intergovernmental cooperation. GEFA and other lenders often require joint and several liability as a condition of loans to multiple government entities. This contractual requirement means that each borrower must stand for the entire debt if other borrowers default.

## **WATER SUPPLY PROJECT FINANCING AND CONTRACTING OPTIONS**

### **OVERVIEW OF COMMON PUBLIC FINANCING METHODS**

Water supply projects are funded by a variety of methods. One method of financing projects is through the use of current revenues. Referred to generally as pay-as-you-go financing, this approach can lower overall project costs since there are no financing costs incurred. Nonetheless, pay-as-you-go financing is not often feasible for water supply projects because of the significant expense and investment required to develop and construct such projects.

The most common method of funding water supply projects is through debt financing. The most common types of debt financing for water supply projects are low-interest loans made from state revolving or other loan funds and traditional tax-exempt bond financing through general obligation or revenue bonds.

### **STATE FINANCING ASSISTANCE THROUGH THE GWSP**

As previously noted, financing available through the GWSP for water supply projects will be made, in large part, from state general obligation bond proceeds provided to DCA and GEFA. Project financing available from DCA will be in the form of state direct investment. Project financing available from GEFA will be in the form of low-interest

loans. The WSTF, and in particular the Finance Subcommittee, carefully assessed each funding source to determine how best to coordinate the use of such funding to provide viable financing options for local governments.

#### **LOW-INTEREST LOANS THROUGH GEFA**

The WSTF examined how to optimize GEFA's loan terms for financing water supply projects, and identified several loan term options that could be utilized, separately or in combination with each other, depending on the unique needs of each qualified project. The general options reviewed to enhance the loan funds included the following: 1) lengthening the amortization period; 2) capitalizing construction interest; and 3) modifying the construction period interest rate.

*Option 1 – Lengthening the Amortization Period.* GEFA currently allows loans to be amortized for a period up to 20 years. The WSTF explored lengthening the maximum GEFA loan amortization period to up to 40 years, so long as the financed asset has a useful life equal to or greater than the proposed amortization period. The WSTF was advised that a longer amortization period would reduce the amount of the annual debt service payable by the local governments. Such reduction would also reduce the annual amount that is being repaid into the GEFA loan fund. The longer amortization period would also increase the total project costs for the local government. In addition, a long amortization period would commit the local government to a long-term debt, thereby reducing the local government's flexibility and debt capacity.

*Option 2 – Capitalizing Construction Interest.* GEFA currently requires borrowers to pay construction interest monthly, beginning upon the first loan draw and ending when the loan is closed and enters repayment. Repayment begins once all loan funds have been drawn or the project inspection team issues final closing documents for the project. The WSTF examined the effect of GEFA allowing borrowers to accrue construction period interest and capitalize such interest into the loan balance. Capitalized interest would be repaid during the repayment period. The WSTF was advised that allowing borrowers to capitalize construction period interest would reduce up-front costs for local governments, but would also delay repayment of obligations into the loan funds. Capitalized interest also increases the annual debt service and the total project costs for the local government borrower.

*Option 3 – Modifying the Construction Period Interest Rate.* GEFA currently charges construction period interest at the same interest rate approved for the loan (currently 3.13 percent). The WSTF assessed whether GEFA should modify the interest rate charged during the construction period. For example, GEFA may charge a lower interest rate or an interest rate that increases in period intervals. The WSTF was advised that modifying the interest rate charged during the construction period would reduce up-front costs for local governments, thereby helping the local governments start projects. The change would also reduce the total project costs for the local government borrower. Modifying the construction period interest rate would, however, also reduce cash flow to GEFA in the early years of a loan, thereby reducing available funding for other projects and diminishing the ability to raise additional capital and to make future loans.

## STATE DIRECT INVESTMENT THROUGH DCA

The WSTF examined the legal and policy constraints relating to state direct investment in water supply projects. As previously noted, the state's FY 2012 budget authorizes the issuance of state of Georgia general obligation bonds in the amount of \$25 million to be made available through DCA to fund reservoir projects. The WSTF recognized that there are legal and policy constraints to be considered when using the proceeds of general obligation bonds. Importantly, the WSTF was advised that the state must own the facilities for which general obligation funds are expended. In addition, when using tax-exempt general obligation bond funds, the state must comply with federal tax-exempt financing laws and regulations, including useful life requirements and private use restrictions. After considering the constraints relating to the use of general obligation bond funds, the WSTF reviewed two general options for state direct investment: 1) state fee ownership of a specific asset or assets; and 2) joint project ownership.

*Option 1 – State Fee Ownership.* The WSTF examined the use of state general obligation bond funds to acquire ownership in fee of an asset that is part of a water supply project. The asset purchased could be the land or other asset. Under the state fee ownership option, the state would acquire the asset and then enter into an intergovernmental contract with the local government providing for the local government to use the asset for a specified period time.

*Option 2 – Joint Project Ownership.* The WSTF also examined the use of state general obligation bond funds to acquire a percentage ownership interest of a water supply project with the local government. Under the joint ownership option, the state would acquire a percentage of the entire water supply project, and then, similar to the state fee ownership option, enter into an intergovernmental contract with the local government providing for the local government to use the state's ownership interest for a specified period of time.

The WSTF recognized that there are implications and limitations involved with each of the options. For example, under each option, the price to be paid for land or other asset under the state fee ownership option, and the project percentage under the joint ownership option, will need to be determined. In addition, since the state will be acquiring an ownership interest, the local governments will be giving up that ownership interest. Local governments may be reluctant to transfer ownership of their water supply projects, even partially, to the state.

In addition to the issues relating to ownership, the ease by which local governments may be able to sell the land or other asset, or percentage of the project, may be affected by existing bond covenants. As previously noted, a common method for funding water supply projects is the issuance of tax-exempt revenue bonds by local governments. In situations where revenue bonds have been issued, even if the project has not been specifically pledged as security for the bonds, there may be negative pledge restrictions or prohibitions on the sale of the assets of the project. The WSTF was advised that each project and its related bond documents would need to be analyzed separately in order to answer the primary question of whether a change to any existing bond restrictions would be

allowed and feasible. The same limitations may be required by bond investors or underwriters in bond financings for new projects as well.

Finally, if the state issues tax-exempt bonds, federal tax-exempt financing regulations may limit the ability of the state to provide funds for particular projects. The primary concern will be the effect of any public-private partnership arrangement on the state's ability to comply with federal private use restrictions. Private use restrictions may apply if private entities own projects or operate projects under long-term leases. The WSTF was advised that while specific private use safe harbors may apply, ultimately the IRS would determine any particular dispute under a "facts and circumstances" test making each situation unique and fact specific.

#### **LEVERAGING ADDITIONAL PROJECT FINANCING THROUGH PUBLIC-PRIVATE PARTNERSHIPS**

The WSTF, and in particular the Finance Subcommittee, carefully examined the role that public-private partnerships (PPP) can play in leveraging other project financing. Specifically, the WSTF obtained advice and recommendations from legal and financial experts and sought and received input from key stakeholders, including city and county government officials, state legislators, private companies and consulting firms, and others. In addition, the WSTF reviewed Senate Bill 122, which passed during the 2011 legislative session of the General Assembly to provide authorization for certain types of local government contracts relating to water supply projects and to encourage development of PPP arrangements. The WSTF acknowledged that SB 122, if properly implemented, could provide a valuable tool for local governments in developing, constructing and managing water supply projects.<sup>5</sup> Finally, the WSTF reviewed case studies of various types of PPP arrangements that have been used in connection with water supply projects.

PPP arrangements are cooperative ventures between the public and private sectors designed to meet public needs. They are built on the expertise of each partner. The primary rationale for entering into PPP arrangements is that both the public and the private sector have unique capabilities that provide them with advantages in specific aspects of service or project delivery. While the roles and responsibilities of the public and private sector vary from project to project, the most successful partnership arrangements draw on the strengths of both the public and private sector to establish complementary relationships. Private companies can be involved in a variety of ways, including financing, design, construction, operations, maintenance, management and ownership, but all PPP arrangements incorporate three distinctive characteristics: 1) a contractual arrangement defining the roles and responsibilities of the parties; 2) agreed upon risk sharing among the public and private sector partners; and 3) financial compensation to the private partner commensurate with the achievement of specified contract goals and targets.

There are significant complexities associated with the implementation and use of PPP arrangements for water supply projects. For example, the WSTF was advised that there are possible legal constraints relating to the

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<sup>5</sup> A brief description of SB 122 is included in **Appendix E** to this report.

loaning of public money in support of a project that has been partially financed by private entities. In addition, federal tax-exempt financing regulations may limit the state's ability to provide funds, either through state direct investment or in the form of loans, to finance particular projects and may limit the ability of local governments to engage in PPP arrangements. Finally, since specific aspects of PPP arrangements vary from project to project and PPP arrangements are structured in a variety of ways, the specific roles and responsibilities of the public and private partners also vary from project to project. In summary, WSTF recognized that there is "no one-size-fits-all" approach with respect to PPP arrangements.

Given the challenges and various considerations relating to PPP arrangements, the WSTF examined two primary options with respect to the state's role in PPP arrangements for water supply projects: 1) GEFA as PPP participant; and 2) GEFA as PPP advisor.

*Option 1 – GEFA as PPP Participant.* SB 122 provides, in part, that GEFA can serve as a lead local agency, and in such role, could enter into the contracts authorized by the bill. The WSTF was advised that while GEFA was authorized to do so by Georgia law, possible legal constraints, such as those relating to the loaning of public money to private individuals and federal tax-exempt financing requirements, present significant hurdles to GEFA's ability to directly enter into PPP arrangements while also providing financial support for the project. In addition, the WSTF recognized that PPP is likely to be a local government-driven process, where specific PPP arrangements are tailored for each specific project and dependent upon the local government's desire to enter into such arrangement based on its benefits to the local government.

*Option 2 – GEFA as PPP Advisor.* The WSTF examined whether GEFA should serve as a PPP advisor to local governments. In the role as PPP advisor, GEFA could make itself available to local governments to provide technical assistance on PPP issues and assist local governments in obtaining legal and financial advice. The WSTF received specific recommendation that GEFA develop (i) general guidelines describing the issues local governments should consider when engaging in any PPP and (ii) specific methodology to be used by local governments in evaluating the financial implications of a particular PPP arrangement. The WSTF recognized, however, that GEFA's ability to effectively serve in the role as PPP advisor is currently limited by budgetary, staffing and other resource constraints.

## **RECOMMENDATIONS FOR THE GOVERNOR'S WATER SUPPLY PROGRAM**

### **ESTABLISH AND FOLLOW GUIDING PRINCIPLES**

During its deliberations, the WSTF recognized certain principles that merited codifying as guiding principles of the GWSP. Those principles include:

- GWSP should support local governments in their efforts to secure adequate and reliable water supplies.
- The GWSP seeks to use state funds in the most efficient and effective way to maximize water supply.
- GWSP should tailor support to unique needs of individual projects instead of pursuing a one-size-fits-all approach.
- Regional cooperation is the preferred approach to addressing water supply needs.
- State funding sources should be managed in a manner appropriate to promote fund sustainability and to help ensure long-term sustainability of local water resources.

### **CONDUCT COMPETITIVE PROJECT SOLICITATION AND EVALUATION**

The WSTF recommends that the GWSP conduct several competitive project solicitations over the coming four fiscal years as funds are available. The competitive solicitation will select projects in which the state will take a direct ownership stake and provide low-interest loan funds. The GWSP should substantially use the project selection systems that appear in Appendix F and Appendix G of this report to govern the selection of projects for funding. While the selection of projects for state direct investment may be conducted independently, the GWSP should strongly encourage any project seeking state direct investment to also use the available low-interest loan funds.

GEFA will also make the low-interest loan funds available for project planning and permitting according to its established monthly review calendar and consistent with the policy adopted by the GEFA board of directors. The applicable policy limits planning-only loans to \$3 million per year per borrower and allows for terms up to 10 years.

Consistent with the guiding principles above, GEFA should tailor its financing for loan applicants to provide attractive financing terms while balancing the long-term interests of the revolving loan fund. In particular, GEFA should adjust its loan terms to allow projects to get underway that otherwise would not.

GEFA and DCA should, as soon as practical, publish the program guidelines and timeline for the solicitation and communicate effectively about the program to potential project sponsors.

### **STRUCTURE STATE DIRECT STATE INVESTMENT FOR LONG-TERM BENEFIT OF LOCAL PROJECT OWNERS**

As described earlier, the GWSP should make state direct investments in key water supply projects either in the form of: 1) ownership in fee of an asset that is part of a water supply project or 2) a percentage ownership interest

of a water supply project with the local government. The state should enter into an intergovernmental contract with the local government providing for the local government to use the specific asset or ownership interest for a specified period of time. The maximum allowable duration of this lease arrangement is 50 years. In light of the public benefit provided by the lease arrangement, the state could lease the use of the asset or ownership interest to the local government for nominal monetary consideration.

At the close of the lease period, the state should offer the local government owner the right of first refusal or the right of first offer<sup>6</sup> to purchase the asset or ownership interest in the project. The value of state's interest would be set according to whatever method best supports the continued use of the asset for the benefit of the public, either fair market value at the time the lease ends or through another approved methodology. At that time, the local government could avail itself of the various traditional financing tools, potentially including low-interest loans from the state, to purchase the asset or ownership interest. Should the local government decline to purchase the asset or ownership interest, the state would be free to retain or sell the asset to an interested buyer.

#### **ASSIST LOCAL GOVERNMENTS IN OBTAINING AND LEVERAGING NON-STATE PROJECT FINANCING**

The WSTF recognizes the importance of helping local governments leverage alternate sources of funding when financing expensive infrastructure. In particular, the WSTF looked carefully at ways the GWSP could support PPPs for water supply projects. But, the WSTF realizes that PPPs, while offering unique opportunities, can present significant challenges to local governments. In addition, there are important issues relating to private use that must be analyzed and evaluated for any PPP arrangements involving facilities that are also financed with tax-exempt bonds. With those challenges and issues in mind, the WSTF makes two specific recommendations with respect to PPP arrangements for water supply projects:

***GEFA Serve as PPP Advisor.*** The WSTF recommends that GEFA serve as a PPP advisor to local governments when requested. In the role as PPP advisor, GEFA should be available to provide technical assistance to local governments on PPP issues and to assist local governments in obtaining legal and financial advice relating to PPP arrangements. In particular, the WSTF recommends that GEFA develop (i) general guidelines describing the issues local governments should consider when engaging in PPP arrangements and (ii) specific methodology to be used by local governments in evaluating the financial implications of a particular PPP arrangement. The WSTF recognizes that GEFA's ability to effectively serve in such role is currently limited by budgetary, staffing and other resource constraints.

***GWSP Application Include PPP Information.*** The final application for financing assistance implemented by GEFA should request from local government applicants information on current and future PPP

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<sup>6</sup> Under right of first refusal, the state would establish a price that the local government could "refuse." Under right of first offer, local government would offer a price that the state could accept or decline.

arrangements. Requiring such information will serve two primary purposes. First, it will provide GEFA with information that it can use in providing assistance to local governments in its role as PPP advisor. Second, the information gathered could be used to analyze the effect a particular PPP arrangement may have on tax-exempt status of state's general obligation bonds or other ability of the state to provide direct investment or loan financing for the particular project.

#### **PROVIDE ADDITIONAL WATER SUPPLY SUPPORT SERVICES**

The WSTF also recommends that the GWSP include support services related to project planning and permitting and the development of regional-scale projects.

***Assist local governments with project planning and permitting.*** The state currently operates the Water Supply Technical Assistance Program (WSTA Program), designed to be a “one stop shop” for local governments to get guidance related to developing water supply projects. This program is used infrequently by local governments. The participating state agencies<sup>7</sup> should better promote the program and, if beneficial, expand its membership to provide the most complete advisory services to local governments.

Additionally, the state participates in the Interagency Review Team with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency. The review team meets regularly to review the status of proposed reservoir projects and rules and regulations that pertain to water supply projects. The state should better educate local governments and other stakeholders about the regulatory coordination embodied in the Interagency Review Team.

***Promote regional projects.*** The GWSP program should take a multi-pronged approach to promoting regional-scale water supply projects. The approaches should include:

- Ensuring the project selection system used to select projects for state direct investment allocates points to projects that benefit multiple water systems and jurisdictions.
- GEFA should not require joint and several liability for loans for large regional projects. Instead, GEFA should allocate liability according to the project ownership percentages described in the intergovernmental agreement between the various project participants.

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<sup>7</sup> The Georgia Environmental Finance Authority, the Georgia Environmental Protection Division, the Department of Community Affairs and the Georgia Soil and Water Conservation Commission.



# THE STATE OF GEORGIA

## EXECUTIVE ORDER

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### BY THE GOVERNOR

WHEREAS: An adequate supply of clean and affordable water is vital to Georgia's economic well-being and sustaining our high quality of life; and

WHEREAS: Communities across the state face short and long-term water supply challenges; and

WHEREAS: Enactment of the Water Stewardship Act (SB370) in 2010 advanced water conservation across the state, helping to create a culture of water conservation in the state of Georgia; and

WHEREAS: Georgia must now also support the development of new water supply sources to supplement existing water conservation efforts; and

WHEREAS: Local governments and water utilities face considerable constraints in financing critical water infrastructure projects in today's economic climate; and

WHEREAS: Various state agencies and authorities possess specialized powers and expertise that can be aligned to support the development of water supply facilities around the state.

**NOW, THEREFORE, BY VIRTUE OF THE POWER VESTED IN ME, AS THE GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY**

ORDERED: That the Georgia Environmental Finance Authority (GEFA) will develop and implement the Governor's Water Supply Program to assist local governments in developing new sources of water supply adequate to meet future water demand forecasts; and

**IT IS FURTHER**

ORDERED: That GEFA will convene a Water Supply Program Task Force that will provide GEFA expert guidance in program development and ensure interagency coordination in program implementation. GEFA will enlist representatives of key stakeholders as it sees fit, though the Council will include representatives of at least the following entities:

Georgia Department of Natural Resources

Georgia Environmental Protection Division

Georgia Department of Community Affairs

Georgia State Financing and Investment Commission

State Properties Commission; and

**IT IS FURTHER**

ORDERED: That GEFA and the Task Force will develop a strategy that enumerates the key challenges to developing new water supply facilities in the state and identifies the most effective solutions to those challenges.

**IT IS FURTHER**

ORDERED: GEFA and the Task Force will develop project financing options, including but not limited to low-interest and subsidized loans and direct state project investment. GEFA and the Task Force will explore opportunities to leverage additional project financing through public private partnerships and maximize the potential value of such partnerships where feasible and mutually beneficial to all parties; and

**IT IS FURTHER**

ORDERED: GEFA and the Task Force will develop a project selection system that ensures alignment of state financial support for critical, cost-effective water supply projects.

THIS \_\_\_\_ DAY OF JANUARY, 2011.

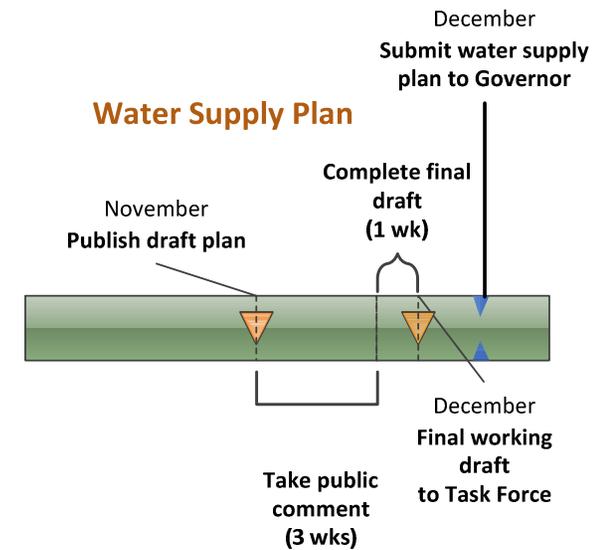
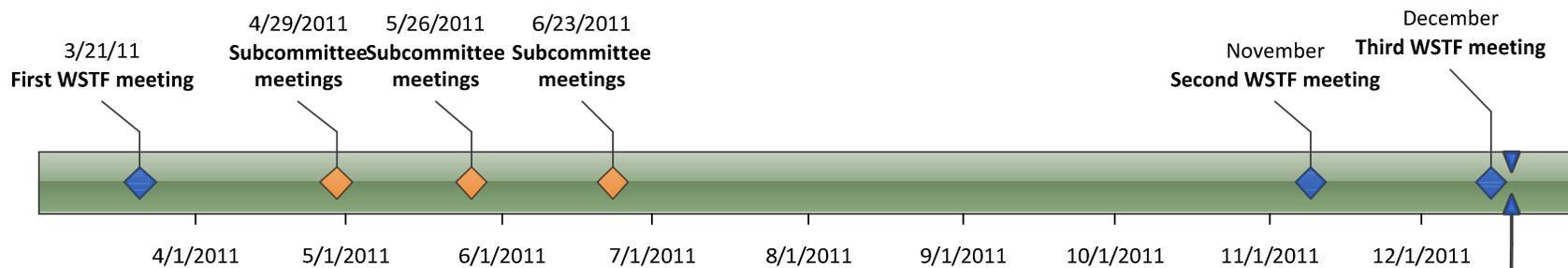
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GOVERNOR



## Governor's Water Supply Program - Revised Timeline

### Water Supply Task Force



**SUMMARY OF PUBLIC COMMENTS**

*Note: Detailed minutes of each meeting are available on the GWSP website*

At the March 21, 2011, WSTF meeting in Atlanta, Georgia, two commenters recommended the WSTF carefully consider rainwater harvesting as an eligible water supply technology. A third commenter discussed a specific potential project in north Georgia and outlined some of the challenges involved in bringing water supply projects online.

At the April 29, 2011, meeting in Rome, Georgia, several commenters expressed concerns or offered suggestions to the WSTF members. In comments regarding the provisions of Senate Bill 122, one attendee expressed concern over the authority for closed meetings creating a lack of transparency and another observer asked for a comparison between the Senate Bill 122 process and the Georgia Department of Transportation's public-private partnership process. Comments stressed the need for a focused marketing effort to make potential borrowers aware of the program, which should include some new financial assistance tools. Observations regarding project evaluation requested consideration of smaller water supply projects, financing of water conservation/efficiency projects, and a focus on needs identified in regional water management plans.

Comments at the May 26, 2011, meeting in Gainesville, Georgia, focused primarily on the use of available funding. WSTF members were requested to consider financing for water conservation/efficiency projects and to set aside funds for use by state agencies to undertake water supply planning, studies, and special projects to support local governmental efforts. It was recommended that WSTF members talk with Seattle officials regarding the use of conservation measures to increase available supply. Other recommendations included the use of the same evaluation criteria for all project types and the inclusion of a schedule of deadlines with the issuance of the final project evaluation criteria. Finally, the WSTF was urged to use its process to help educate customers on the actual costs of providing water-related services and the need to set adequate rates.

Several attendees offered comments at the June 23, 2011, meeting in Perry, Georgia. Comments recommended types of projects that should be considered eligible – that is, inclusion of indirect potable reuse projects, aquifer recharge projects to support municipal and agricultural use, water conservation/efficiency projects, and leak detection and repair projects. While strong support was provided for the regional/multi-jurisdictional approach, concern was expressed over criteria discouraging interbasin transfers, a component to many regional initiatives. Deferral of loan

repayments would provide a valuable incentive toward implementation of regional projects. One attendee identified seven principles that should be followed in selecting projects under the Governor's Water Supply Program.

## APPENDIX D

### **GWSP FUNDING OVERVIEW**

In his 2011 State of the State Address, Gov. Deal announced a commitment of \$300 million over four years for reservoir and water supply development. The governor's FY2012 budget recommends total bond funding for reservoirs in the amount of \$45,750,000: \$25,000,000 to the Department of Community Affairs (DCA) and \$20,750,000 to GEFA. This funding will complement the existing \$28,500,000 that GEFA has in the Georgia Reservoir and Water Supply Fund. The program budget anticipates a similar annual commitment of bond funding in the coming three years (FY13 – FY15). GEFA anticipates issuing approximately \$88,500,000 in revenue bonds (or some other financing vehicle) to fund this balance of the governor's \$300 million commitment. GEFA can pledge revenues from both the Reservoir Fund and the Georgia Fund (as necessary) to fund the necessary debt.

<b>GWSP FUNDING SOURCES</b>	
Current GEFA Reservoir and Water Supply Fund assets	28,500,000
FY12 GO bond funding request for DCA for reservoirs	25,000,000
Planned GO bond funding request to DCA for reservoirs FY13 - FY15 (\$25M/year)	75,000,000
FY12 GO bond funding request for GEFA for reservoir development	20,750,000
Planned GO bond funding request to GEFA for reservoir development FY13-FY15 (\$20.75M/year) <sup>1</sup>	62,250,000
GEFA revenue bond sale out of <i>Reservoir Fund</i> and/or <i>Georgia Fund</i> (to reach \$300M) <sup>2</sup>	88,500,000
<b>Total</b>	<b>300,000,000</b>
<sup>1</sup> Planned GO Bond funding requests for GEFA shown above in addition to baseline GA Fund (\$20M/year) and federal loan program match (\$12M/year)	
<sup>2</sup> GEFA's assumed ability to generate sufficient revenue through bond issuance without additional GO bond funding is based on GSFIC/PRAG modeling assumptions.	

**SENATE BILL 122 SUMMARY**

In the 2011 legislative session, the Georgia General Assembly passed Senate Bill 122, which became effective on May 2, 2011. It amends the Georgia Local Government Public Works Construction Law to allow local development authorities, water service delivery authorities and local governing authorities (counties, municipalities and consolidated governments), to partner jointly or individually with private firms for planning, financing, construction, acquisition, leasing, operation and/or maintenance of water supply and wastewater treatment facilities. The process authorized by this bill supplements other methods of procurement provided by existing law.

Currently, local governments or lead local authorities may obtain state or federal assistance for development of water supply projects, and make grants or loans to operators of projects from public funds. Senate Bill 122 sets forth detailed procedures for local governments and authorities to select private partners, modeled on the Georgia Department of Transportation's public-private partnership process. The procedure described in Senate Bill 122 begins with designation of a lead local authority and evaluation of the appropriate level of local, state and private participation in a project. Acting on behalf of participating local governments, the lead local authority can follow a competitive process in selecting a private partner. To provide for public involvement, the General Assembly included requirements for public comment, a public hearing following receipt of proposals, and decision making in public meetings. After selection of a respondent on the basis of contract terms that are most satisfactory and advantageous to participating local authorities, those entities may enter into a contract or contracts for up to 50 years for the requested services.

The new law permits local government and local public authorities to enter into "take or pay" contracts for up to 50 years to purchase water supply or services or a lease of a project to a private party for up to 50 years. Such contracts and leases could be effective tools to attract private investment and participation.

The new law also amends the Georgia Water Supply Act of 2008 to authorize participation of the Georgia Environmental Finance Authority (GEFA) in the process by encouraging participating local governments or lead local authorities to consult with GEFA and allow them to request GEFA participation in any capacity, including acting as the lead local authority. No contract negotiated by GEFA is operative until approved by the participating local governments and authorities. Senate Bill 122 authorizes GEFA to carry out additional powers and duties, such as evaluating projects to determine appropriate levels of state or private participation, proposing projects to local governing authorities, and facilitation of projects through the environmental permitting process. GEFA may exercise the same powers and duties as local authorities regarding water projects, if the agency desires to develop a project.

The bill also includes a prohibition on delegation of any eminent domain powers to private partners, and imposes conflict-of-interest restrictions on subsequent employment of state or local officials, staff and employees by participating private firms for a period of three years after they leave public service. Lastly, water supply projects financed or constructed in whole or in part by GEFA are subject to the agency's environmental and development restrictions.



**Governor's Water Supply Program  
State Direct Investment  
Project Selection System  
July 2011**

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**PURPOSE OF THE GOVERNOR'S WATER SUPPLY PROGRAM**

The purpose of the Governor's Water Supply Program (GWSP) is to align and mobilize the resources of the state of Georgia to assist local governments with developing new sources of water supply adequate to meet future water demands.

**FUNDING AVAILABLE**

The GWSP directs Gov. Deal's commitment of \$300,000,000 for water supply projects over a four-year period beginning July 1, 2011. These funds include bond funding made available through the Georgia Environmental Finance Authority (GEFA) and the Georgia Department of Community Affairs (DCA) and funds to be secured by GEFA for the GWSP.

**ELIGIBILITY**

For purposes of evaluating eligibility for state direct investment, the GWSP will consider four aspects of each proposed water supply project:

**1) Project Type**

The GWSP may provide financing for water supply projects, including:

- expanding existing water supply, amenity or flood control reservoirs for water supply;
- converting flood control or amenity reservoirs to water supply reservoirs;
- increasing safe yield of existing water supply reservoirs through the addition of pump storage capability;
- removing sediment from existing water supply reservoir to increase safe yield;
- establishing new water supply reservoirs;
- interconnecting water systems for supply and/or supply redundancy;
- drilling new wells, including for direct potable use or streamflow augmentation that protects or enhances water supply;
- reopening inactive wells;
- desalination;
- developing aquifer storage and recovery capability; and
- indirect potable reuse systems.

The GWSP may consider alternative water supply projects as well, on a case-by-case basis.

**2) Entity**

The GWSP may provide direct state investment to counties and municipalities and water and/or water and sewer authorities. Additionally, applicants must meet the following eligibility criteria:

- **Qualified Local Government** - Only counties and municipalities certified as Qualified Local Governments by DCA and the water and/or water and sewer authorities within those certified governments may be eligible for state direct investment.

- **Service Delivery Strategy** - Only applicants within counties that have current DCA-certified Service Delivery Agreements may be eligible for state direct investment and the proposed project must be consistent with the verified strategy.<sup>8</sup>
- **State Audit Requirements** - Applicants must be in compliance with all state audit requirements.
- **Metro Plan Compliance** - Communities within the Metropolitan North Georgia Water Planning District must be certified by the director of the Environmental Protection Division as either being in compliance or making a good faith effort to comply with all District plans and/or enforcement measures.
- **Regional Water Plan Consistency** - The proposed project must be consistent with the jurisdiction's approved regional Water Development and Conservation Plan.

### 3) **Consistency with State Law and Policy**

- As required by the Water Supply Act of 2008, any proposed reservoir project must conform to the standards and procedures outlined in O.C.G.A. § 12-5-472(b) et seq. The applicable provisions are summarized in endnote 1 to Appendix G, but complete statutory language governs project eligibility.
- As required by the Georgia Comprehensive State-wide Water Management Plan, all financing for multi-jurisdictional reservoir projects will be contingent upon all parties signing binding water use agreements.
- Applicant must conform to any water auditing rules promulgated by Georgia DNR pursuant to O.C.G.A. 12-5-4.1.

### 4) **Investment Potential**

These investments must accord with the state constitutional provisions and existing law concerning purposes of general obligation debt. Depending on a project's specific characteristics and financing needs, that project may or may not be eligible for state investment. DCA and GEFA will evaluate projects to determine their investment potential. The evaluation will include at least the following questions:

- Does the overall project include an opportunity for the state to take an undivided ownership interest in a specific, definable asset with an appropriate fair market value and useful life?
  - What is the asset?
- Does the overall project include an opportunity for the state to own an undivided portion of the overall project?
- Would partial ownership of the overall project (either specific asset or other interest) interfere with any existing financing agreements (e.g. bond covenants)?

## **PROJECT SELECTION**

For purposes of scoring, the GWSP shall classify each proposed project into one of six project classifications:

1. New reservoir projects
2. Reservoir enhancements (e.g. expansion, conversion, sediment removal, adding pump storage)
3. Wells
4. Interconnections
5. Indirect potable water reuse
6. Emerging / innovative projects (e.g. ASR, streamflow augmentation, desalination, etc.)

These six classifications are reflected in the scoring system below. The GWSP anticipates investing in a combination of projects from the six classifications reflected in the scoring system. The GWSP will determine the amount of funds to assign to each classification after initial evaluation of the project applications.

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<sup>8</sup> O.C.G.A. 36-70-27(a)(2) allows for an exemption from the service delivery strategy requirements for certain drinking water projects under certain circumstances. The GWSP policies would conform to state law in these instances.

The scoring system to be used by the GWSP will evaluate four elements of each proposed project, as described in Table 1 below.

**Table 1. Overview of Scoring System**

Maximum Point Value = 100 points

	Project Classifications					
	New Reservoir Projects	Reservoir Enhancements	Wells	Interconnections	Indirect Potable Water Reuse	Emerging / Innovative
1. <b>Need For Project and Location</b> - will evaluate the demonstrated need for new water supply and degree of that need.	35	35	35	35	35	35
2. <b>Project Finances</b> – will evaluate the level of non-state investment in the project and the cost-effectiveness of the project.	30	30	30	30	30	35
3. <b>Readiness and Timeliness</b> – will evaluate how soon the project will begin operations and yield new water supply.	30	30	35	30	30	15
4. <b>Project Approach and Impact</b> – will evaluate project design and level of regional cooperation and regional impact.	5	5	0	5	5	15
	100	100	100	100	100	100

#### REQUIREMENTS FOR APPROVED PROJECTS

- **Inspections and Monitoring** - Applicant must permit GEFA, DCA and/or EPD to inspect the physical location of a project at any time during the construction period. Inspections will be conducted during regular business hours.
- **Procurement** - Procurement of construction contracts, construction services, materials, and equipment in GWSP financed projects must be public, open, and competitive, as defined by both state law and the procurement requirements of all applicable financing contracts (e.g. GEFA or DCA contract). Funded construction must meet the requirements of both state law and of all applicable financing contracts.



**Governor's Water Supply Program  
Low-Interest Loans  
Project Selection System  
July 2011**

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**PURPOSE OF THE GOVERNOR'S WATER SUPPLY PROGRAM**

The purpose of the Governor's Water Supply Program (GWSP) is to align and mobilize the resources of the state of Georgia to assist local governments with developing new sources of water supply adequate to meet future water demands.

**FUNDING AVAILABLE**

The GWSP directs Gov. Deal's commitment of \$300,000,000 for water supply projects over a four-year period beginning July 1, 2011. These funds include bond funding made available through the Georgia Environmental Finance Authority (GEFA) and the Georgia Department of Community Affairs (DCA) and funds to be secured by GEFA for the GWSP.

**ELIGIBILITY**

For purposes of evaluating eligibility for low-interest loans, the GWSP will consider five aspects of each proposed water supply project in evaluating the eligibility of the project:

**1) Project Type**

The GWSP may provide financing for water supply projects, including:

- expanding existing water supply, amenity or flood control reservoirs for water supply;
- converting flood control or amenity reservoirs to water supply reservoirs;
- increasing safe yield of existing water supply reservoirs through the addition of pump storage capability;
- removing sediment from existing water supply reservoir to increase safe yield;
- establishing new water supply reservoirs;
- interconnecting water systems for supply and/or supply redundancy;
- drilling new wells, including for direct potable use or streamflow augmentation that protects or enhances water supply;
- reopening inactive wells;
- desalination;
- developing aquifer storage and recovery capability; and
- indirect potable reuse systems.

The GWSP may consider alternative water supply projects as well, on a case-by-case basis.

**2) Entity**

The GWSP may provide state direct investment to counties and municipalities and water and/or water and sewer authorities. Additionally, applicants must meet the following eligibility criteria:

- **Qualified Local Government** - Only counties and municipalities certified as Qualified Local Governments by the DCA and the water and/or water and sewer authorities within those certified governments may be eligible for low-interest loans.

- **Service Delivery Strategy** - Only applicants within counties that have current DCA-certified Service Delivery Agreements may be eligible for low-interest loans and the proposed project must be consistent with the verified strategy.<sup>9</sup>
- **State Audit Requirements** - Applicants must be in compliance with all state audit requirements.
- **Metro Plan Compliance** - Communities within the Metropolitan North Georgia Water Planning District must be certified by the director of the Environmental Protection Division as either being in compliance or making a good faith effort to comply with all District plans and/or enforcement measures.
- **Regional Water Plan Consistency** - The proposed project must be consistent with the jurisdiction's approved regional Water Development and Conservation Plan.

### 3) **Consistency with State Law and Policy**

- As required by the Water Supply Act of 2008, any proposed reservoir project must conform to the standards and procedures outlined in O.C.G.A. § 12-5-472(b) et seq. The applicable provisions are summarized in endnote 1 to this Appendix, but complete statutory language governs project eligibility.
- As required by the Georgia Comprehensive State-wide Water Management Plan, all financing for multi-jurisdictional reservoir projects will be contingent upon all parties signing binding water use agreements.
- Applicant must conform to any water auditing rules promulgated by Georgia DNR pursuant to O.C.G.A. 12-5-4.1.

### 4) **Activities**

Under this program, loan funds from GEFA may be used for the following activities related to the development of water supply projects:

- Feasibility analysis;
- Project design;
- Construction, grading, site preparation, dredging, etc;
- Land acquisition needed for project implementation;
- Stream or wetland mitigation; and
- Administrative and/or legal services.

GEFA loan funds may not be used to pay force account labor.

### 5) **Financial Capacity Analysis (Underwriting)**

GEFA will underwrite each proposed project and prospective borrower. GEFA bases its financial capacity analyses on the strength of the coverage ratio of the enterprise fund that services the water supply facility and/or system. While the enterprise fund may be supported by transfers (subsidies) from other funds of the city or county, it is the revenues of the system that constitute the main source of repayment of the GEFA loan. GEFA gives additional consideration to an applicant's loan history with GEFA and the applicant's operating efficiency and capital structure. GEFA will also consider revenues from "take-or-pay" contracts from creditworthy applicants or rental obligations of creditworthy lessees of the facility.

The revenue coverage analysis will extend to four years history as well as four years projected revenues and expenses, including potential revenue from proposed rate increases, population growth, increased operating expenses from the proposed new facility, and increased debt service required to defray new GEFA and/or other debt (including required capital lease payments). Financial history is derived from audit reports of the applicant.

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<sup>9</sup> Ibid

Projected years' cash flows are based on information in the applicant's loan application, engineering reports, historical trends, population growth projections, discussions with community representative(s), and new ordinances. Creditworthiness may be determined from information furnished by recognized rating agencies or derived from audited financial statements or other appropriate data.

Audit reports having adverse opinions by the applicant's auditor may subject the application to denial. An applicant with an audit report containing any significant audit findings may not be offered a loan until the applicant provides written, corroborated documentation that the audit finding has been rectified. An applicant will not be offered a loan if they are not in compliance with the Georgia Department of Audits' requirement to complete an audit within six months of the applicant's fiscal year end or a letter from the Department of Audits granting an extension.

If revenues are projected to be insufficient to adequately cover the operating expenses plus debt service into the future, the applicant may not be offered a loan without qualification. Qualifications that may be required include, but are not limited to, a required increase to water and/or sewer rates, creation of a debt service reserve account, or curtailment of transfers out of the fund.

The minimum requirement for satisfaction of the financial capacity threshold is a pro forma coverage ratio of at least 105 percent in the first full year of loan repayment. Where applicable, system revenues constitute a substantially higher level of importance than general fund soundness.

#### **PROJECT SELECTION**

For purposes of scoring, the GWSP shall classify each proposed project into one of six project classifications:

1. New reservoir projects
2. Reservoir enhancements (e.g. expansion, conversion, sediment removal, adding pump storage)
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4. Interconnections
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These six classifications are reflected in the scoring system below. The GWSP anticipates funding a combination of projects from the six classifications reflected in the scoring system. The GWSP will determine the amount of funds to assign to each classification after initial evaluation of the project applications.

The scoring system to be used by the GWSP will evaluate four elements of each proposed project, as described in Table 1 below.

**Table 1. Overview of Scoring System**  
 Maximum Point Value = 100 points

	Project Classifications					
	New Reservoir Projects	Reservoir Enhancements	Wells	Interconnections	Indirect Potable Water Reuse	Emerging / Innovative
1. <b>Need For Project and Location</b> - will evaluate the demonstrated need for new water supply and degree of that need.	35	35	35	35	35	35
2. <b>Project Finances</b> – will evaluate the level of non-state investment in the project and the cost-effectiveness of the project.	25	25	30	25	25	35
3. <b>Readiness and Timeliness</b> – will evaluate how soon the project will begin operations and yield new water supply.	20	20	30	25	25	15
4. <b>Project Approach and Impact</b> – will evaluate project design and level of regional cooperation and regional impact.	20	20	5	15	15	15
	100	100	100	100	100	100

<sup>1</sup> Summarized language of O.C.G.A. § 12-5-472(b) et seq.

1. The project shall not include an electrical generation facility unless such facility does not cause the consumption of water from such reservoir for the generation of such power.
2. The local government shall acquire sufficient land surrounding any reservoir to provide for future expansion of such reservoir, and to provide passive recreational opportunities on and around such reservoir.
3. The local government must prohibit development on any proposed reservoir or its surrounding lands other than public development appropriate for such passive uses.
4. Water supply must be the primary use of any proposed reservoir project and all uses of the reservoir or the surrounding lands must be subordinate to the use of the reservoir for water supply.
5. The local government must prohibit the operation of motorized vessels other than those being operated by electric motors on any proposed reservoir project. As used in this paragraph, the term "vessel" has the meaning provided by Code Section 52-7-3.