



*House of Representatives*  
*Study Committee on Navigable Streams and Related*  
*Matters*

Final Report

Chairman Lynn Smith  
Representative, 70<sup>th</sup> District

The Honorable Stan Gunter  
Representative, 8<sup>th</sup> District

The Honorable James Burchett  
Representative, 176<sup>th</sup> District

The Honorable Al Williams  
Representative, 168<sup>th</sup> District

The Honorable Johnny Chastain  
Representative, 7<sup>th</sup> District

Mr. Jud Turner  
Former Director, Georgia Environmental  
Protection Division

The Honorable John Corbett  
Representative, 174<sup>th</sup> District

**2024**

Brock Perry, Attorney Analyst  
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## INTRODUCTION

The House Study Committee on Navigable Streams and Related Matters was created by the passage of House Resolution 1554 during the 2024 Session of the Georgia General Assembly.<sup>1</sup>

HR 1554 recognizes Georgia's navigable streams as a precious resource for the state that serve as a magnet for outdoor enthusiasts and a valuable asset to owners of adjacent properties. However, HR 1554 notes that identifying which of the state's streams constitute navigable streams is a challenging legal and factual inquiry. Having a greater degree of certainty regarding which streams are navigable, what the corresponding rights are regarding navigable streams, and what uses are permitted on navigable streams would be desirable, as the resolution notes.

The committee consisted of seven members of the House of Representatives. HR 1554 calls for the committee to consist of the chair of the House Committee on Natural Resources and the Environment; the Majority Whip of the House of Representatives; an attorney at law with experience in water rights and property rights; and up to four members of the House of Representatives. On June 20, 2024, Speaker Jon Burns appointed the following members: Representative Lynn Smith, chair; Representative Stan Gunter; Representative Al Williams; Representative John Corbett; Representative Johnny Chastain; Representative James Burchett; and Mr. Jud Turner.

## MEETINGS

The House Study Committee on Navigable Streams and Related Matters held three meetings that were open to testimony from stakeholder group representatives and members of the public:<sup>2</sup>

### August 15<sup>th</sup>, 2024 at the Georgia State Capitol

**Link to Recording of Meeting:** <https://www.youtube.com/watch?v=-y6tvI4o7o8&t=756s>

- The following individuals presented at the meeting: Jud Turner; Jeff Cown (Director, Environmental Protection Division); Anna Truszczynski (Chief, Watershed Protection Branch at EPD); and Scott Robinson (Georgia DNR Chief of Fisheries Division).

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<sup>1</sup> As discussed later in the report, this study committee follows the 2023 House Study Committee on Fishing Access to Freshwater Resources, which examined the public's right to fish particular waterways. This study committee viewed its charge as a continuation of that study committee's work and agreed to incorporate the 2023 study committee's findings and recommendations into its discussion, which this report reflects.

<sup>2</sup> The committee thanks Nicole Chappelle, Shana Jones from the Carl Vinson Institute of Government, and the Georgia Department of Natural Resources for their work and assistance in organizing the meetings. In addition, the committee thanks Unicoi State Park and Lodge as well as The Donald W. Nixon Centre for Performing and Visual Arts for hosting committee meetings. Finally, the committee thanks House Media Services for livestreaming the meetings.

**September 20<sup>th</sup>, 2024 (North Georgia Rivers) at Unicoi State Park and Lodge, Helen, GA**

**Link to Recording of Meeting:** <https://www.youtube.com/watch?v=oGIP4kdLx7k&t=23s>

- The following individual presented at the meeting: Major Bob Holley (Georgia DNR Law Enforcement Division).
- The following individuals provided public comment at the meeting: Andrea White; Todd Rehm; Amanda Dyson-Thornton; Tim Brenner; Andrew Bruce; Steve Seitz; Ben LaChance; Michael Humphrey; Joe Rose; Phillip Hodges; Tom Welander; Mark Hicks; George Dusenbury; Virginia Galloway (Paulding County Commissioner); Stephen Carter; Arch Farrar; Paula Hanington; Terry Bramlett; Jack Orr; Brad Coppedge; Kasey Sturm; Craig Pendergrast; Joe Cook; Rena Ann Peck; Suzanne Welander; Carol Proctor; Brooke Davidson; Robert Billue; Nathan Polley; Jerry Brown; James McCay; Hunter White; Roger Nott; Ben Bruce; and Senator Steve Gooch.

**November 13<sup>th</sup>, 2024 (Chattahoochee River) at The Donald W. Nixon Centre for Performing and Visual Arts, Newnan, GA**

**Link to Recording of Meeting:** <https://www.youtube.com/watch?v=tpKX1j62oXc>

- The following individuals presented at the meeting: Cathe Nixon (welcome); Dean Jackson (Former President, Friends of Chattahoochee Bend State Park); Stephen Clark (GEMA); Jay Matthews (GA Rural Water Association); Erin Kenner (Chattahoochee Bend State Park Manager); Phil Larue (President, Friends of Chattahoochee Bend State Park); Brad Gibson (DNR Parks Region Manager); Emily Camargo (Trust for Public Land); Michelle Morgan (Carroll County Commission Chair); Stacey Blackmon (Carroll County Attorney); Soheila Naji (DNR Georgia Outdoor Stewardship Program); Monica Thornton (Executive Director, The Nature Conservancy); Stacy Funderburke (Central Southeast Region Vice President, The Conservation Fund); and Jonathan Parker (President, The Good Forty, Inc.).
- The following individuals provided public comment at the meeting: Janina Edwards; Steve Monroe; Rob Bennison; Allen Ragsdale; Garrison Forrester; Andrea White; Nelson Kunes; Katie Larue; Alyson Stober; Diane Windham; Joe Cook; David Asbell; Robert Pope; Dominic Distretti; Joey Thiel; Bryan Rooks; Jason Chapman; Mike Wilson; Tommy Key; Phillip Hodges; Julia Franks; Dan MacIntyre; Kasey Sturm; Craig Pendergrast; Jonathan Mann; Charles Geis; George Virgo (as read by Joe Cook); Carol Proctor; Tom Welander; Jim Brooks (as read by Suzanne Welander); Hank Klausman (as read by Suzanne Welander); and Suzanne Welander.<sup>3</sup>

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<sup>3</sup> The committee also received and reviewed written testimony from other stakeholder groups and members of the public. That testimony was distributed to all members of the committee. Written comment was received from, among others, Georgia Rivers; Jimmy Harris; Matthew Dalton; Steve Monroe; Joe Kunes; Linda Delery; Ryan Mathes; Ray Mathes; Jonathan Foster; Mitch Mathes; William Smith; Alex Smith; Richard Strauss; James Brooks; Charlie Paris (Gilmer County Commission Chair); Wildwood Nature Academy; Hank Klausman; the City of Fort Oglethorpe; Tall Timbers; and students from Pike County Elementary School (names withheld for privacy reasons).

An additional meeting scheduled for October 11<sup>th</sup>, 2024 at Strickland's Lodge in Nahunta, GA was canceled following the devastation caused by Hurricane Helene to many parts of the state. Our sympathies remain with fellow Georgians in southern and eastern Georgia who continue to rebuild their communities. During the November 13<sup>th</sup> meeting, time was allocated to discuss the challenges facing South Georgia, including issues unique to South Georgia rivers and water infrastructure post-Helene.

## **COMMITTEE FINDINGS**

### **Georgia's Water Landscape**

Water has shaped Georgia's land, history, economy, ecology, and people. Georgia's rivers helped shape the colony's earliest cities and the state's westward expansion into the interior. The state's waterways have helped power Georgia's mills, transport produce and timber downstream, electrify rural communities, and supply water to farms and homes across the state. Rivers shaped the boundaries of land grants, cities, and counties. The state's waterways in its 14 river basins have provided vital ecosystems for plant and animal species in the state. In addition, Georgia's rivers have been a haven for various recreational opportunities, be it fishing, hunting, canoeing, kayaking, rafting, or tubing.

The committee discussed and heard about the diversity of rivers, streams, and tributaries in Georgia. Georgia has 70,150 miles of rivers and streams, from smaller, cold-water streams in the North Georgia mountains to blackwater rivers in South Georgia like the Altamaha and Ogeechee.<sup>4</sup> These rivers and streams have different geographic features, water flows, and accompanying wildlife species, all impacted by the diversity in topographies enjoyed by the state.

Georgia watercourses flow through different communities, who have established histories and local traditions. Generations of families have fished, hunted, boated and lived along these rivers and streams. The committee heard from landowners, fishermen, paddlers, and ecologists about the need to consider each river or stream uniquely, and that before seeking to classify a particular waterway, they recommended taking into account the ecological and physical characteristics of each waterway.

Fishing is important to Georgia's economy and identity. As stated by the Georgia Department of Natural Resources during its testimony, Georgia has more than 1.1 million licensed anglers, more than 14,800 jobs connected to fishing, and at least \$1.5 billion in fishing retail sales. Those retail sales have led to more than \$85 million over the past 10 years returning to the state from federal excise taxes on fishing equipment. Fishing as a tradition is enshrined in Article I, Section I, Paragraph XXVIII of the Georgia Constitution, which states that "[t]he tradition of fishing and hunting and the taking of fish and wildlife shall be preserved for the people and shall be managed by law and regulation for the public good." In addition, with respect to wildlife, O.C.G.A. §27-1-3

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<sup>4</sup> <https://gadnr.org/resources>

entrusts the ownership of, and jurisdiction over, all wildlife to the State of Georgia, with those wildlife resources to be “managed in accordance with sound principles of wildlife management, using all appropriate tools, including hunting, fishing, and the taking of wildlife.”

Floating recreation, including kayaking, canoeing, rowing, rafting, and paddling, are hallmarks of Georgia’s outdoor culture. Adventures, memories, and livelihoods are created along Georgia’s major rivers and tributaries, with ample testimony at the study committee meetings attesting to that fact. Individual boaters told stories of their families rafting down rivers for generations. River guides testified to the out-of-state visitors to Georgia who take advantage of the state’s waterways for outdoor adventures. Paddling groups and canoe associations attested to the tremendous economic impact of outdoor watersports, namely hundreds of billions in economic activity, dozens upon dozens of small businesses, burgeoning equipment manufacturers, and numerous careers fostered out on the rivers. Economic development projects are being undertaken to cultivate floating recreation, such as whitewater rafting in Columbus along the Chattahoochee River. In short, outdoor recreation on Georgia’s waterways has had a tremendous economic, cultural, and social impact for the state.

## **Navigability and Rights of Landowners**

### ***Determining Navigability***

Navigability is a key factor when determining the public’s right to access particular waters and the rights of adjoining landowners. O.C.G.A. §44-8-5(a) defines a non-tidal “navigable stream” as one “capable of transporting boats loaded with freight in the regular course of trade either for the whole or a part of the year,” noting “[t]he mere rafting of timber or the transporting of wood in small boats shall not make a stream navigable.”<sup>5</sup> This definition dates back to 1863.

To determine navigability, and thus the public’s right to access particular streams, the Georgia Department of Natural Resources has relied on a variety of sources and factors: state and federal law; court cases; Georgia Attorney General opinions; research and historical documents on traditional use; presence of state-owned boat ramps; and stream characteristics such as stream width and flow rate (measured in cubic feet per second or “CFS”).<sup>6</sup> While the U.S. Army Corps of Engineers maintains a “Major Navigable Rivers” list based on its application of federal law for waterways within its jurisdiction, the Georgia Department of Natural Resources does not maintain a similar list of Georgia waters based on its application of state law.

The committee heard testimony from fishermen and paddlers seeking clarity on whether local streams are navigable or non-navigable to know where they are permitted to go onto particular

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<sup>5</sup> Compared with the federal definition of “navigable waters” as set forth in relevant part in 33 C.F.R. §329.4: “those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

<sup>6</sup> DNR built and currently maintains 259 boat ramps and access areas across the state, and they hold that streams with state-owned boat ramps are open for public use.

waterways, as well as testimony from landowners providing input on the navigability question. However, members of the public differed on whether that desire for clarity requires a change in the definition of navigability in Georgia law. Some members of the public testified to a belief that while old, the current definition is adequate to discern navigability. Other members of the public, particularly those living on or near smaller streams, urged against a change in the definition to avoid the risk of broadening the definition where smaller streams previously thought non-navigable are deemed navigable. Finally, paddlers sought to ensure any change in the definition of navigability did not foreclose boating opportunities on smaller streams. Members of the public referenced the physical characteristics of local waters that render them non-navigable, as well as noting their local streams would be unlikely to meet a flow rate test threshold. People who live near rivers like the Toccoa River testified to varying navigability in particular sections of river due to natural or man-made obstructions. People who testified also directed criticism at using flow rates as the determining factor for navigability for a multitude of reasons: changes in flow as a result of rainfall, flow rates obscuring natural factors in the water channel, and difficulty gauging flow rates. In short, public comment focused on flow rates failing to appreciate unique characteristics in Georgia's rivers.

Changes to the definition of navigability can affect industries connected to Georgia waterways. For example, testimony was provided by Georgia trappers that under current law, trappers cannot trap on public waters. Thus, waterways deemed navigable would be closed off to trappers and inhibit their ability to manage key wildlife species along those waterways. Failing to manage nuisance wildlife could present risks to the livelihoods of trappers and risks to communities in the form of ecological damage.

### ***Private Property Rights and Resolving Disputes***

Private property rights are enshrined in the Georgia Constitution.<sup>7</sup> Those private property rights can not only inform what constitutes one's property, but also what one can do with one's property. Determining those rights when a piece of property is adjacent to a river requires analysis based on Georgia law and Georgia precedent.

Determining navigability informs the rights of adjoining landowners of that river or stream. In 1863, Georgia codified its definition of navigability. For navigable streams, according to O.C.G.A. §44-8-5, adjacent landowner rights to that navigable stream extend to the low-water mark in the bed of the stream. The state, therefore, owns the submerged land unless the adjacent landowner's title can be completely traced to 1863 or before. With non-navigable streams, on the other hand, the adjacent landowner owns to the center of the stream. If the landowner owns both sides of the stream, therefore, the landowner owns the entire bed of the stream and can exclude others. These rights with respect to non-navigable streams also include exclusive fishing rights.

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<sup>7</sup> Georgia Constitution, Article I, Section I, Paragraphs I and II.

Lack of clarity on navigability, however, can lead to disputes and even confrontations along the riverbanks in Georgia. While many members of the public noted more friendly and collegial interactions between property owners and those out on the water, others noted anecdotes of aggressive behavior exhibited by both sides. This type of confrontation puts a DNR ranger in the position of having to solely arbitrate questions of law on a riverbank with angry individuals. DNR law enforcement testified to the study committee about the affidavit process where landowners can submit a list of persons authorized to hunt, fish, or be on a property. During the study committee process, DNR also announced a partnership with the Hunt Regs App to allow Georgians an easy way to report illegal hunting and fishing activities by connecting directly to the DNR Ranger Hotline program.<sup>8</sup> This free program should allow easier reporting of violations, as well as an opportunity for DNR to collect data and note problematic locations for potential further investigation.

The property rights enjoyed by landowners are not inalienable. Parties interested in being on non-navigable waterways can speak with landowners to acquire permission or buy those rights from the landowner. Some landowners testified to having no problem with people floating down the river, which is in line with common courtesy, while having problems with people getting out on the banks, camping, or leaving trash. Other landowners, however, have established trout outfits and want to exclude others from their private property to maintain the privacy and exclusivity of customer experiences. Paddlers and fishermen testified to their extensive work educating and working on projects to respect and protect the waterways. Permission or an agreement between parties would provide the clarity many people throughout this process have sought. While paddlers testified to a potential danger in walking onto someone's property to ask for permission, so too can there be danger felt by landowners in confronting a person on their property who believes they are allowed to be there. The prevailing view is that most landowners and outdoor enthusiasts have no problem with one another, but seek respect from one another. Respect cannot be legislated, but trespass can be legislated, confrontations can be mitigated, and the details of Georgia law can be better communicated.

### ***Passage on Georgia Waterways***

An issue discussed before the study committee was passage on Georgia waterways. Georgia law protects the right to passage on navigable Georgia waterways, while with non-navigable streams, a landowner who owns both sides of a non-navigable waterway has the ability to exclude others. There is not extensive case law related to the right of passage, but one key case cited during the study committee was *Young v. Harrison*, 6 Ga. 130 (1849). In the opinion, Justice Lumpkin states the following:

“Rivers are of three kinds: 1st. Such as are wholly and absolutely private property. 2d. Such as are private property, subject to the servitude of the public interest, by a passage

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<sup>8</sup> [https://www.albanyherald.com/local/hunt-regs-app-allows-individuals-to-report-poachers/article\\_622797b0-9c64-11ef-9e2a-779dbd69e816.html](https://www.albanyherald.com/local/hunt-regs-app-allows-individuals-to-report-poachers/article_622797b0-9c64-11ef-9e2a-779dbd69e816.html)

upon them. The distinguishing test between these two is, whether they are susceptible or not of use for a common passage. 3d. Rivers where the tide ebbs and flows, which are called arms of the sea.

Some public comment at study committee meetings asserted a need to differentiate navigability and passage, while emphasizing a common law right of passage on all waterways as laid out in Justice Lumpkin's second category of rivers. This side of the debate argued the 1863 Code was intended to codify then-existing law rather than derogate from it, and that per the Young decision, the public right is one of an "easement, and the proprietor of the adjoining land has the right to use the land and water of the river, in any way not inconsistent with this easement."

Other public comment and questions from the study committee departed from this train of thought and pointed to language in the case *Givens v. Ichuaway, Inc.*, 268 Ga. 710 (1997):

Nineteenth century statements of what constituted navigability under federal law do not show that the codifiers of 1863 misstated the law of Georgia when they defined navigable streams and delineated the rights of persons in those streams. Young was decided prior to 1863, and the only reasonable conclusion is that the Code of 1863 included the second kind of stream recognized in Young... when the Code of 1863 set forth the definition of a navigable stream. Thus, the servitude Young recognized on a stream "susceptible... of use for a common passage" is identical to the servitude imposed on a navigable stream as defined in O.C.G.A. § 44-8-5(a). There is nothing in Young that imposes a servitude of common passage on a stream that is not navigable as defined in O.C.G.A. § 44-8-5(a).

This side of the debate contended there is a need to link passage with navigability per Georgia case law, that the case law points to a public right of passage solely on navigable waterways, and that the Code Commission in 1863 provided a fact-specific means to determine which rivers were wholly private property and which were susceptible or not for passage.

## **Collaboration and Partnerships to Increase Access**

Durable and sustainable ways of increasing access to Georgia waterways for the public can come in the form of collaborative efforts and private partnerships to secure rights and secure land along Georgia waterways for lasting public use. This can come in the form of partnerships between a combination of private landowners, nonprofit organizations, local governments, and state government. The study committee heard testimony from different preserved areas that used different combinations of stakeholders to collaborate on projects.

Along the Chattahoochee River, Chattahoochee Bend State Park as well as McIntosh Reserve have used different mechanisms to preserve river frontage along one of Georgia's major rivers. Chattahoochee Bend State Park is one of the state's largest state parks, protecting 2,910 acres and five miles of river frontage.<sup>9</sup> On land previously owned by Georgia Power, the park was

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<sup>9</sup> <https://gastateparks.org/ChattahoocheeBend>



opened in 2011 five years after initial state grants were approved.<sup>10</sup> Strong efforts by the park and volunteers have allowed the park to welcome many visitors and develop plans for further expansion, increasing public access to in-state and out-of-state outdoor enthusiasts. McIntosh Reserve is an effort by Carroll County and the Trust for Public Land, with noted financial assistance from private philanthropy and state grant money, to preserve greenspace and increase outdoor recreation opportunities.<sup>11</sup> Recent expansion opportunities saw the initial 527-acre park add 429 acres in 2023 and an additional 467 acres in 2024.<sup>12</sup> This project protects miles of Chattahoochee riverfront and is a key part of the Chattahoochee Riverlands Initiative spearheaded by the Trust for Public Land to connect metro Atlanta residents to the outdoors along the Chattahoochee River.<sup>13</sup>

The study committee also heard testimony from other conservation groups who have done notable work in protecting lands and increasing access through a variety of tools: conservation easements, Georgia Outdoor Stewardship Program grants, and land acquisitions. These groups, in addition to DNR, have safeguarded lands for generations while opening the outdoors to those generations.

## Recent Legislative History

### *Flint River Litigation and Senate Bill 115 (2023)*

Recent discussion of this issue commenced as a result of litigation that concerned property along the Flint River. More than 344 miles long, the Flint River is one of Georgia's largest and is home to both historic commercial river traffic and current outdoor recreation opportunities. A number of landowners along the river have deeds that state they own to the center of the Flint River. One example pertains to a stretch of the Flint River known as Yellow Jacket Shoals, a shoal bass hotspot whose adjoining landowners barred anglers from fishing on that section of the river without permission. DNR, though, considered that part of the river to be navigable and did not issue citations for fishing. This discrepancy has boiled over into riverside confrontations between landowners, boaters, and fishermen.<sup>14</sup> One landowner, Four Chimneys LLLP, sued and the two parties (Four Chimneys and the State of Georgia) later entered into an agreement where DNR, while not determining navigability, nevertheless concluded: "the landowner holds title to a portion of the riverbed by virtue of valid [s]tate grants issued prior to 1863 to the adjoining upland property, and therefore under Georgia law the landowner and its successors in title hold the exclusive right to fishing on that property to the center of the river."<sup>15</sup> As part of the settlement, the landowner did not contest or oppose the public's ability to float through the section of the river in question. Additional litigation similar to this case was filed soon after.

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<sup>10</sup> <https://bendfriend.org/the-bend>

<sup>11</sup> <https://www.chattahoocheeriverlands.com/stories/history-culture/mcintosh-reserve-site-visit/>

<sup>12</sup> <https://metroatlantaceo.com/news/2024/04/trust-public-land-acquires-additional-467-acres-mcintosh-reserve/>

<sup>13</sup> <https://www.chattahoocheeriverlands.com/explore-the-riverlands/where-are-the-riverlands/>

<sup>14</sup> <https://gon.com/news/state-weighs-in-on-flint-river-access-controversy>

<sup>15</sup> State of Georgia and Four Chimneys, LLLP Joint Press Release (April 3, 2023): <https://gadnr.org/state-georgia-and-four-chimneys-lllp-joint-press-release>

Days after the Four Chimneys court order was announced, the Georgia General Assembly passed Senate Bill 115 relating to public fishing access, stating:

“The General Assembly finds that the state procured ownership of all navigable stream beds within its jurisdiction upon statehood and, as sovereign, is trustee of its peoples’ rights to use and enjoy all navigable streams capable of use for fishing, hunting, passage, navigation, commerce, and transportation, pursuant to the common law public trust doctrine. The state continues to hold title to all such stream beds, except where title in a private party originates from a valid Crown or state grant before 1863. The General Assembly further finds that the public retained the aforementioned rights under such doctrine even where private title to beds originates from a valid grant.”<sup>16</sup>

### **2023 Study Committee, HB 1172 (2024), and HB 1397 (2024)**

The House Study Committee on Fishing Access to Freshwater Resources was created during the 2023 Legislative Session. During that study committee, testimony was heard at meetings discussing the language of Senate Bill 115 and thoughts on the bill’s impact.<sup>17</sup> Proponents of Senate Bill 115 stated the bill would stave off both a litany of potential litigation facing the state as well as a resulting patchwork of accessibility to anglers and paddlers along navigable rivers, while still preventing trespass along private property. Opponents of Senate Bill 115 testified to it nevertheless being an infringement on private property rights and a potential governmental taking, in addition to language regarding the public trust doctrine potentially causing unintended consequences.<sup>18</sup> The study committee recommended, among other recommendations, to delineate the navigability of Georgia’s rivers, preserve the definition of navigability, and remove references to the public trust doctrine in statute in recognition of the doctrine’s standing in common law.<sup>19</sup>

House Bill 1172 was introduced during the 2024 legislative session. The legislation removed public trust language that was part of Senate Bill 115 while adding language stating that “[t]he General Assembly further finds that, by the common law, the citizens of this state have an inherent right to use for passage and for hunting and fishing all navigable streams from low-water mark to low-water mark.”<sup>20</sup> The legislation also added that the public’s right on navigable streams where the beds are held in private title are limited “to only using such navigable streams for passage and for hunting and fishing.” Proponents of the legislation cited its effect of mitigating unforeseen circumstances caused by Senate Bill 115, while opponents criticized the legislation

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<sup>16</sup> [Ga. L. 2023, p. 303, § 1/SB 115](#) (now incorporated as O.C.G.A. §44-8-5(c)).

<sup>17</sup> <https://georgiarecorder.com/2023/10/12/state-lawmakers-angling-to-wade-into-question-of-property-rights-along-georgias-waterways/>

<sup>18</sup> The public trust doctrine asserts that public trust waters (navigable waters), lands (the land beneath those waters up to the high-water mark), and living resources (wildlife) in a state are held by the state in trust.

<sup>19</sup> <https://www.house.ga.gov/Committees/en-US/FishingAccessstoFreshwaterResources.aspx>

<sup>20</sup> <https://www.legis.ga.gov/api/legislation/document/20232024/229042>

for permitting landowners to assert ownership of the beds of navigable streams. The legislation was passed and signed into law by Governor Kemp on May 6, 2024.

House Bill 1397 was also introduced during the legislative session. The bill provided a list of streams presumed to be navigable. Proponents cited the additional clarity the legislation would provide landowners, paddlers, and fishermen, while opponents of the legislation cited legal issues as well as the dozens of Georgia waterways used for outdoor recreation not included in the list. The legislation did not pass out of committee, but the discussion around the legislation helped spur the creation of this study committee.

## **COMMITTEE RECOMMENDATIONS**

Upon the conclusion of its meetings and following discussion among committee members, the House Study Committee on Navigable Streams and Related Matters makes the following recommendations:

1. Maintain the definition of navigability set forth in O.C.G.A. §44-8-5(a) and the right of passage for navigable streams as found in O.C.G.A. §52-1-31;
2. Refrain from a statutory delineation of navigable and non-navigable streams;
3. Incentivize and strengthen tools to foster collaboration and partnerships between landowners, nonprofits, and local/state government that increase opportunities for public access and conservation of Georgia's waterways;
4. Preserve the Georgia Outdoor Stewardship Program;
5. Urge the Department of Natural Resources to further publicize and fund new technologies that assist in tracking and resolving disputes on waterways; and
6. Protect Georgia's fishing, hunting, trapping, and outdoor recreation traditions, as well as those reliant on waterways such as logging and farming, by carefully analyzing the impact of any potential legislation on these sectors.

**Speaker Burns, these are the findings and recommendations of your Study Committee on Navigable Streams and Related Matters.**

Respectfully Submitted,



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The Honorable Lynn Smith  
Representative, 70<sup>th</sup> District  
Chairman