

Senate Bill 294

By: Senators Meyer von Bremen of the 12<sup>th</sup> and Jackson of the 50<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 12 of the Official Code of Georgia Annotated, relating to  
2 general provisions relative to conservation and natural resources, so as to provide a statement  
3 of legislative findings; to define certain terms; to require a cost-benefit analysis as a  
4 prerequisite to the promulgation or adoption of administrative rules and regulations  
5 implementing Acts of the General Assembly relating to asbestos safety, safe drinking water,  
6 safe dams, surface mining, clean air, clean water, solid waste and hazardous waste  
7 management, radiation control, and other Acts relating to the environment and of certain  
8 actions taken by the Department of Natural Resources and the Environmental Protection  
9 Division of the Department of Natural Resources relative to such laws; to provide conditions  
10 and procedures for the adoption of such guidelines; to create the "Advisory Committee on  
11 Risk Assessment and Cost-benefit Analysis"; to provide the membership and the  
12 appointment of members; to provide that the committee shall establish guidelines and  
13 procedures controlling such risk assessment and cost-benefit analysis; to provide that the  
14 failure of the board, the department, or the division to conduct such analysis shall result in  
15 the applicable regulation or action being void; to provide for emergency regulations or  
16 actions; to repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 The General Assembly finds that:

20 (1) Public health, environmental, and safety regulations, standards, and policies have  
21 lead to dramatic improvements in human health and the environment in Georgia. Some  
22 of those regulations, standards, and policies have been costly to implement and less  
23 effective than they could have been. Regulatory activities should be based upon a  
24 realistic consideration of risk and on an adequate consideration of costs and potential  
25 benefits;

1 (2) Environmental and public health problems are becoming increasingly complex and  
 2 difficult to discern, and, at the same time, the costs of making further environmental and  
 3 public health improvements are also increasing considerably. It is estimated that the  
 4 citizens of the United States spend approximately \$300 billion dollars annually in  
 5 complying with federal, state, and local environmental protection laws and regulations.  
 6 We need to ensure that those dollars are being spent wisely in Georgia. Georgia needs  
 7 new approaches, based on the best scientific, technical, and economic information, to  
 8 achieve further improvements;

9 (3) Public health, safety, and environmental regulations, standards, and polices adopted  
 10 by Georgia should be based upon the best scientific information available and should  
 11 achieve the greatest overall reduction in risk to public health and the environment in the  
 12 most cost-effective and flexible manner possible;

13 (4) The citizens have a right to be fully informed about the costs, benefits, or any adverse  
 14 effects on the economy resulting from state regulations and about the policies that  
 15 underlie regulatory decisions by agencies of this state, and they have a right to know  
 16 whether Georgia is achieving the goals expressed in those regulations and policies; and

17 (5) The goal of this Act is to provide the same or greater environmental, public health,  
 18 and safety protection to the citizens of Georgia but to do it in a manner that is more  
 19 effective and efficient.

## 20 SECTION 2.

21 Chapter 1 of Title 12 of the Official Code of Georgia Annotated, relating to general  
 22 provisions relative to conservation and natural resources, is amended by designating the  
 23 existing portion of such chapter as "Article 1" and by inserting at the end thereof a new  
 24 article to read as follows:

### 25 "ARTICLE 2

26 12-1-20.

27 As used in this article, the term:

28 (1) 'Board' means the Board of Natural Resources.

29 (2) 'Commissioner' means the commissioner of natural resources.

30 (3) 'Committee' means the Advisory Committee on Risk Assessment and Cost-benefit  
 31 Analysis created by this article.

32 (4) 'Covered action' means the issuance by the department or the division of any  
 33 state-wide or regional permit or any standard or other policy contemplated by any state  
 34 environmental law or environmental rule or regulation.

- 1 (5) 'Department' means the Department of Natural Resources.
- 2 (6) 'Division' means the Environmental Protection Division of the Department of Natural  
3 Resources.
- 4 (7) 'Environmental regulation' means a rule or regulation promulgated by the board to  
5 enforce or implement a state environmental law.
- 6 (8) 'State environmental law' means any of the following Acts of the General Assembly,  
7 as now or hereafter amended:
- 8 (A) Part 3 of Article 2 of Chapter 4 of this title, the 'Georgia Surface Mining Act of  
9 1968';
- 10 (B) Article 2 of Chapter 5 of this title, the 'Georgia Water Quality Control Act';
- 11 (C) Part 2 of Article 3 of Chapter 5 of this title, the 'Ground-water Use Act of 1972';
- 12 (D) Code Section 12-5-31, relating to permits for withdrawal, diversion, or  
13 impoundment of surface waters and monitoring, recording, and reporting water  
14 withdrawn by certain irrigation systems;
- 15 (E) Part 3 of Article 3 of Chapter 5 of this title, the 'Water Well Standards Act of 1985';
- 16 (F) Part 5 of Article 3 of Chapter 5 of this title, the 'Georgia Safe Drinking Water Act  
17 of 1977';
- 18 (G) Part 3 of Article 5 of Chapter 5 of this title, the 'Georgia Safe Dams Act of 1978';
- 19 (H) Chapter 7 of this title, the 'Erosion and Sedimentation Act of 1975';
- 20 (I) Part 1 of Article 2 of Chapter 8 of this title, the 'Georgia Comprehensive Solid  
21 Waste Management Act';
- 22 (J) Part 2 of Article 3 of Chapter 8 of this title, the 'Georgia Hazardous Site Response  
23 Act';
- 24 (K) Article 9 of Chapter 8 of this title, the 'Georgia Hazardous Site Reuse and  
25 Redevelopment Act';
- 26 (L) Article 1 of Chapter 9 of this title, 'The Georgia Air Quality Act';
- 27 (M) Article 2 of Chapter 9 of this title, the 'Georgia Motor Vehicle Emission Inspection  
28 and Maintenance Act';
- 29 (N) Chapter 13 of this title, the 'Georgia Underground Storage Tank Act';
- 30 (O) Chapter 14 of this title, relating to oil or hazardous material spills or releases;
- 31 (P) Chapter 12 of this title, the 'Georgia Asbestos Safety Act';
- 32 (Q) Chapter 13 of Title 31, the 'Georgia Radiation Control Act'; and
- 33 (R) Any Act of the General Assembly empowering and directing the board to comply  
34 with federal statutes relating to clean water, clean air, or the environment.

1 12-1-21.

2 (a) There is created within the department the Advisory Committee on Risk Assessment  
3 and Cost-benefit Analysis. The committee shall consist of 12 members appointed as  
4 follows:

5 (1) Four members appointed by the Speaker of the House of Representatives as follows:

6 (A) One person with expertise in cost-benefit analysis;

7 (B) One person with expertise in risk assessment;

8 (C) One representative from a public health advocacy organization; and

9 (D) One representative from industry;

10 (2) Four members appointed by the President of the Senate as follows:

11 (A) One person with expertise in cost-benefit analysis;

12 (B) One person with expertise in risk assessment;

13 (C) One representative of an environmental organization; and

14 (D) One representative from industry; and

15 (3) Four members appointed by the Governor as follows:

16 (A) One person with expertise in cost-benefit analysis;

17 (B) One person with expertise in risk assessment; and

18 (C) Two members of the general public.

19 12-1-22.

20 (a) The committee shall prepare guidelines for use by the board, the department, and the  
21 division in conducting risk assessments and cost-benefit analyses as provided in Code  
22 Section 12-1-24. At a minimum, such guidelines shall include:

23 (1) Procedures and practices for conducting risk assessments and cost-benefit analyses  
24 to ensure that such assessments and analyses are conducted in accordance with the best  
25 accepted professional standards and methods of scientific, technical, and economic  
26 analyses;

27 (2) Models and assumptions to be used, including a discussion of their plausibility, and  
28 criteria for when they should be used;

29 (3) Criteria for conducting uncertainty analyses;

30 (4) Criteria for reporting the results of risk assessments and cost-benefit analyses in a  
31 way that is reasonably understandable to the public, clearly conveys information about  
32 uncertainty and variability, and adequately reveals the science, economic information,  
33 and policy judgments, if any, embodied in these assessments and analyses; and

34 (5) Criteria for the appropriate use of peer review to help improve the quality of those  
35 assessments and analyses.

1 (b) In preparing the guidelines specified in subsection (a) of this Code section, the  
2 committee shall consult with experts in relevant disciplines, including toxicology, biology,  
3 ecology, chemistry, statistics, exposure assessment, engineering, economics, and public  
4 health medicine, and shall hold public hearings to receive recommendations from interested  
5 parties.

6 12-1-23.

7 (a) Not later than June 30, 2002, the committee shall submit proposed guidelines  
8 developed as provided in Code Section 21-1-22, along with a summary of the guidelines,  
9 to the Governor, the Speaker of the House of Representatives, the President of the Senate,  
10 and the commissioner of natural resources and shall concurrently make the recommended  
11 guidelines available to the public, including publication on the Internet.

12 (b) Before establishing final guidelines as provided in Code Section 21-1-22, the  
13 committee shall conduct at least one public hearing on the recommended guidelines and  
14 shall submit the proposed guidelines to appropriate independent and external experts for  
15 review. Within six months of the date of publication of the proposed guidelines as  
16 provided in subsection (a) of this Code section, the committee shall develop and publish  
17 final guidelines.

18 (c) The committee shall cease to exist on the date of publication of final guidelines in  
19 accordance with this Code section.

20 12-1-24.

21 (a) Following the publication of the committee's guidelines as provided in Code Section  
22 12-1-23, the board shall not adopt any environmental regulation and the department and  
23 division shall not take any covered action except as provided in this Code section.

24 (b) Prior to the board's final promulgation or amendment of any environmental regulation  
25 or the department or division taking any covered action, the department or the division, as  
26 appropriate, shall prepare a risk assessment and a cost-benefit analysis:

27 (1) Whenever the proposed environmental regulation or covered action will exceed or  
28 differ from the requirements of any federal regulation, standard, or policy on the same  
29 subject;

30 (2) Whenever an environmental regulation or a covered action is anticipated to have an  
31 adverse impact on industry of \$1 million or more; or

32 (3) Whenever the commissioner determines that an environmental regulation or a  
33 covered action will:

34 (A) Result in the removal of any specific requirements, prohibitions, or duties imposed  
35 by an existing environmental regulation, standard, or policy;

1 (B) Result in any prohibition, requirement, or duty imposed by an existing  
2 environmental regulation, standard, or policy becoming narrower in scope of  
3 applicability;

4 (C) Decrease or render any requirement imposed by an existing environmental  
5 regulation, standard, or policy less stringent or restrictive; or

6 (D) Repeal an existing environmental regulation, standard, or policy.

7 (c) The risk assessment and the cost-benefit analysis required by this Code section shall  
8 include the following components:

9 (1) An explanation of the risks to public health or the environment, or both, addressed  
10 by the proposed environmental regulation or covered action, including an estimate of the  
11 risk;

12 (2) The identification of the sources of scientific information used in evaluating the risk  
13 and a summary of such information;

14 (3) A description of any uncertainties and the assumptions made in conducting the  
15 analysis, including the impact of such uncertainties and assumptions on the resulting risk  
16 estimate;

17 (4) A description of the expected benefits of the proposed covered action, including the  
18 expected reduction in the risks to public health or the environment, or both, identified in  
19 paragraph (1) of this subsection;

20 (5) Details pertaining to the relevant costs of the proposed covered action and the costs  
21 of not adopting such environmental regulation or taking such covered action, including  
22 an analysis of the incidence of such costs;

23 (6) A description of any significant countervailing risks that may be caused by the  
24 proposed environmental regulation or covered action; and

25 (7) The identification of alternative regulatory approaches that will produce comparable  
26 environmental or health outcomes and an estimate of their relative benefits and costs.

27 (d) The department or division shall develop the risk assessments and cost-benefit analyses  
28 required by this Code section using scientifically objective and unbiased standards relying  
29 on the best reasonably available scientific information.

30 (e) The department shall publish in a major local newspaper of general circulation in this  
31 state and on the Internet a notice of availability of any risk assessment or cost-benefit  
32 analysis conducted pursuant to this Code section and shall make such assessments and  
33 analyses available to the public by posting them on the Internet. The board shall allow at  
34 least 60 days for the public to submit comments and shall respond on the Internet to all  
35 significant comments prior to promulgating the rule or regulation, and the department or  
36 division shall allow at least 60 days for the public to submit comments and shall respond  
37 on the Internet to all significant comments prior to taking the covered action.

1 (f) Any person who conducts an independent risk assessment or cost-benefit analysis of  
2 a proposed environmental regulation or a covered action may submit such assessment or  
3 analysis to the board, the department, or the division for inclusion in its record. The board,  
4 the department, and the division shall consider such assessment or analysis, together with  
5 all other comments, evidence, and testimony, written or oral, submitted regarding the  
6 proposed environmental regulation or covered action in promulgating the regulation or  
7 taking the covered action.

8 12-1-25.

9 The failure of the board, the department, or the division to conduct a risk assessment and  
10 a cost-benefit analysis as required under Code Section 12-1-24 shall constitute grounds for  
11 vacating the environmental regulation promulgated by the board or the covered action  
12 taken by the department or the division.

13 12-1-26.

14 Any other provision of this article to the contrary notwithstanding, the board may adopt an  
15 environmental regulation, and the department and division may take a covered action,  
16 without conducting a risk assessment and a cost-benefit analysis if the commissioner or the  
17 director of the division determines that such action is necessary to protect the public health  
18 and welfare; provided, however, in doing so, the department and division shall be required  
19 to provide written justification to the board as to why it deviated from conducting a risk  
20 assessment and cost-benefit analysis under procedures developed by the advisory  
21 committee."

22 **SECTION 3.**

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