

House Bill 242

By: Representatives McCall of the 78<sup>th</sup>, Day of the 126<sup>th</sup>, Skipper of the 116<sup>th</sup> and Westmoreland of the 86<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 16 of Title 12 of the Official Code of Georgia Annotated, relating to  
2 environmental policy, so as to require the publication of detailed statements of rationale for  
3 certain new or amended environmental regulations or other related actions of state  
4 government; to provide for the effect of noncompliance with such publication requirement;  
5 to provide for certain emergencies; to define certain terms; to provide legislative findings and  
6 declarations; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds and declares that:

10 (1) Environmental, public health, and safety regulations, standards, and policies have led  
11 to dramatic improvements in human health and the environment in Georgia;

12 (2) Environmental and public health problems are becoming increasingly complex and  
13 difficult to discern, and, at the same time, the costs of making environmental and public  
14 health improvements are also increasing considerably. Georgia needs new approaches  
15 based on the best scientific, technical, and economic information to achieve further  
16 improvements;

17 (3) Environmental, public health, and safety regulations, standards, and policies adopted  
18 by this state should be based upon the best scientific information available and should  
19 achieve the greatest overall reduction in risk to public health and the environment in the  
20 most cost-effective and flexible manner possible;

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

(5) The purpose of this Act is to provide the same or greater environmental, public health, and safety protection to the citizens of Georgia but to do so in a manner that is based on the best available scientific, technical, and economic information.

## **SECTION 2.**

Chapter 16 of Title 12 of the Official Code of Georgia Annotated, relating to environmental policy, is amended by designating the existing provisions thereof as Article 1 of said chapter.

## **SECTION 3.**

Said chapter is further amended by striking the word "chapter" and inserting "article" in lieu thereof wherever the former term appears in:

- (1) Code Section 12-16-1, relating to a short title;
- (2) Code Section 12-16-3, relating to definitions;
- (3) Code Section 12-16-6, relating to required reconciliation of existing authority;
- (4) Code Section 12-16-7, relating to effect of article on federal environmental policy requirements; and
- (5) Code Section 12-16-8, relating to director's guidelines to assist government agencies.

## **SECTION 4.**

Said chapter is further amended by adding a new Article 2 to read as follows:

### **"ARTICLE 2**

12-16-20.

As used in this article, the term:

- (1) 'Board' means the Board of Natural Resources.
- (2) 'Commissioner' means the commissioner of natural resources.
- (3) 'Covered action' means the issuance by the department or the division of any state-wide or regional permit or any standard or other policy contemplated by any state environmental law or environmental regulation.
- (4) 'Department' means the Department of Natural Resources.
- (5) 'Division' means the Environmental Protection Division of the Department of Natural Resources.
- (6) 'Environmental regulation' means a rule or regulation promulgated by the board to enforce or implement a state environmental law.
- (7) 'State environmental law' means any of the following Acts of the General Assembly, as now or hereafter amended:

- (A) Part 3 of Article 2 of Chapter 4 of this title, the 'Georgia Surface Mining Act of 1968';
- (B) Article 2 of Chapter 5 of this title, the 'Georgia Water Quality Control Act';
- (C) Part 2 of Article 3 of Chapter 5 of this title, the 'Ground-water Use Act of 1972';
- (D) Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters and monitoring, recording, and reporting water withdrawn by certain irrigation systems;
- (E) Part 3 of Article 3 of Chapter 5 of this title, the 'Water Well Standards Act of 1985';
- (F) Part 5 of Article 3 of Chapter 5 of this title, the 'Georgia Safe Drinking Water Act of 1977';
- (G) Part 3 of Article 5 of Chapter 5 of this title, the 'Georgia Safe Dams Act of 1978';
- (H) Chapter 7 of this title, the 'Erosion and Sedimentation Act of 1975';
- (I) Part 1 of Article 2 of Chapter 8 of this title, the 'Georgia Comprehensive Solid Waste Management Act';
- (J) Part 2 of Article 3 of Chapter 8 of this title, the 'Georgia Hazardous Site Response Act';
- (K) Article 9 of Chapter 8 of this title, the 'Georgia Hazardous Site Reuse and Redevelopment Act';
- (L) Article 1 of Chapter 9 of this title, 'The Georgia Air Quality Act';
- (M) Article 2 of Chapter 9 of this title, the 'Georgia Motor Vehicle Emission Inspection and Maintenance Act';
- (N) Chapter 12 of this title, the 'Georgia Asbestos Safety Act';
- (O) Chapter 13 of this title, the 'Georgia Underground Storage Tank Act';
- (P) Chapter 14 of this title, relating to oil or hazardous material spills or releases;
- (Q) Chapter 13 of Title 31, the 'Georgia Radiation Control Act'; and
- (R) Any Act of the General Assembly empowering and directing the board to comply with federal statutes relating to clean water, clean air, or the environment.

12-16-21.

- (a) For covered actions, new environmental regulations, and significant amendments to existing environmental regulations, the department shall prepare and make available to the public a detailed statement of rationale as required by this Code section. Such statement shall accompany any notice required by Code Section 50-13-4.
- (b) The detailed statement of rationale shall state the basis for the regulation or covered action, including the scientific or technical basis, alternative policy considerations, and estimated cost to implement, and shall identify any studies, reports, policies, or statements

1 of professional judgment or administrative need relied upon in developing the  
2 environmental regulation or covered action.

3 (c) Prior to the board's promulgation or amendment of any environmental regulation or  
4 the department or division taking any covered action, the board, the department, or the  
5 division, as appropriate, shall prepare the required detailed statement of rationale:

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

9 (2) Whenever an environmental regulation or a covered action is anticipated by the  
10 board, department, or division to have an adverse impact on the economy of the state of  
11 \$1 million or more; or

12 (3) Whenever an environmental regulation or a covered action will:

13 (A) Result in the removal of any specific requirement, prohibition, or duty imposed by  
14 an existing environmental regulation, standard, or policy;

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

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

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

21 12-16-22.

22 The failure of the board, the department, or the division to present a detailed statement of  
23 rationale as required under Code Section 12-16-21 shall constitute grounds for judicially  
24 declaring the environmental regulation promulgated by the board or the covered action  
25 taken by the department or the division to be invalid in an action for declaratory judgment  
26 in accordance with Chapter 4 of Title 9.

27 12-16-23.

28 Any other provision of this article to the contrary notwithstanding, the board may adopt an  
29 environmental regulation, and the department or division may take a covered action,  
30 without presenting the required statement of rationale if the commissioner or the director  
31 of the division determines that an emergency action is necessary to protect the public health  
32 and welfare.

1 12-16-24.  
2 The provisions of this article are in addition to, and not in lieu of, any applicable provisions  
3 for promulgation of rules in accordance with Chapter 13 of Title 50, the 'Georgia  
4 Administrative Procedure Act.'"

5 **SECTION 5.**  
6 All laws and parts of laws in conflict with this Act are repealed.