

Senate Bill 172

By: Senators Hudgens of the 47th, Cagle of the 49th, Gillis of the 20th, Collins of the 6th, Shafer of the 48th and Bulloch of the 11th

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

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

4 **SECTION 2.**

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

7 **SECTION 3.**

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

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

16 **SECTION 4.**

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

18 "ARTICLE 2

19 12-16-20.

20 As used in this article, the term:

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

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

28 12-16-21.

- 29 (a) For covered actions, new environmental regulations, and significant amendments to
30 existing environmental regulations, the department shall prepare and make available to the
31 public a detailed statement of rationale as required by this Code section. Such statement
32 shall accompany any notice required by Code Section 50-13-4.
- 33 (b) The detailed statement of rationale shall state the basis for the regulation or covered
34 action, including the scientific or technical basis, alternative policy considerations, and
35 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.