

The Senate Natural Resources and the Environment Committee offered the following substitute to SB 524:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and
2 natural resources, so as to require that the filing of a petition for hearing before an
3 administrative law judge does not automatically stay any permit, order, or action issued by
4 either the director of the Environmental Protection Division, the Shore Protection
5 Committee, or the Coastal Marshlands Protection Committee; to provide that such a stay may
6 be entered upon a showing of good cause; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
9 resources, is amended by striking paragraph (2) of subsection (c) of Code Section 12-2-2,
10 relating to the Environmental Protection Division and the procedure for aggrieved persons
11 to appeal a decision of the director, and inserting in its place a new paragraph (2) to read as
12 follows:
13

14 "(2) Any person who is aggrieved or adversely affected by any order or action of the
15 director shall, upon petition within 30 days after the issuance of such order or the taking
16 of such action, have a right to a hearing before an administrative law judge appointed by
17 the Board of Natural Resources. Notwithstanding any other provision of law to the
18 contrary, the filing of such petition by persons other than the permittee, or person to
19 whom the order or action is directed, shall not automatically stay such permit, order, or
20 action; provided, however, the administrative law judge may grant a stay of the
21 enforcement of such permit, order, or action upon appropriate terms for good cause
22 shown. The hearing before the administrative law judge shall be conducted in accordance
23 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and
24 regulations adopted by the board pursuant thereto. Any administrative law judge so
25 appointed by the board shall fully meet and qualify as to all applicable conflict of interest
26 requirements provided for in Section 304(h)(2)(D) of the Federal Water Pollution Control

1 Act of 1972, as amended, and the rules, regulations, and guidelines promulgated
 2 thereunder. The decision of the administrative law judge shall constitute the final decision
 3 of the board and any party to the hearing, including the director, shall have the right of
 4 judicial review thereof in accordance with Chapter 13 of Title 50."

5 SECTION 2.

6 Said title is further amended by striking subsection (a) of Code Section 12-5-244, relating
 7 to administrative and judicial review under Part 2 of Article 4 of Chapter 5 of Title 12, the
 8 "Shore Protection Act," and inserting in its place a new subsection (a) to read as follows:

9 "(a) Any person who is aggrieved or adversely affected by any order or action of the
 10 committee shall, upon petition within 30 days after the issuance of such order or taking of
 11 such action, have a right to a hearing before an administrative law judge appointed by the
 12 board. Notwithstanding any other provision of law to the contrary, the filing of such
 13 petition by persons other than the permittee, or person to whom the order or action is
 14 directed, shall not automatically stay such permit, order, or action; provided, however, the
 15 administrative law judge may grant a stay of the enforcement of such permit, order, or
 16 action upon appropriate terms for good cause shown. The hearing before the administrative
 17 law judge shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia
 18 Administrative Procedure Act,' and the rules and regulations adopted by the board pursuant
 19 thereto. The decision of the administrative law judge shall constitute the final decision of
 20 the board and any party to the hearing, including the committee, shall have the right of
 21 judicial review thereof in accordance with Chapter 13 of Title 50."

22 SECTION 3.

23 Said title is further amended by striking subsection (b) of Code Section 12-5-283, relating
 24 to administrative and judicial review under Part 4 of Article 4 of Chapter 5 of Title 12, the
 25 "Coastal Marshlands Protection Act of 1970," and inserting in its place a new subsection (b)
 26 to read as follows:

27 "(b) Any person who is aggrieved or adversely affected by any order or action of the
 28 committee shall, upon petition within 30 days after the issuance of such order or the taking
 29 of such action, have a right to a hearing before an administrative law judge appointed by
 30 the board. Notwithstanding any other provision of law to the contrary, the filing of such
 31 petition by persons other than the permittee, or person to whom the order or action is
 32 directed, shall not automatically stay such permit, order, or action; provided, however, the
 33 administrative law judge may grant a stay of the enforcement of such permit, order, or
 34 action upon appropriate terms for good cause shown. The hearing before the
 35 administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the

1 'Georgia Administrative Procedure Act,' and the rules and regulations adopted by the board
2 pursuant thereto. The decision of the administrative law judge shall constitute the final
3 decision of the board and any party to the hearing, including the committee, shall have the
4 right of judicial review thereof in accordance with Chapter 13 of Title 50."

5 **SECTION 4.**

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