

Senate Bill 524

By: Senators Johnson of the 1st, Cagle of the 49th, Hudgens of the 47th and Gillis of the 20th

AS PASSED SENATE

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 by an appropriate superior court upon a showing of good cause; to repeal
7 conflicting laws; and for other purposes.

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

9 **SECTION 1.**

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

15 "(2) Any person who is aggrieved or adversely affected by any order or action of the
16 director shall, upon petition within 30 days after the issuance of such order or the taking
17 of such action, have a right to a hearing before an administrative law judge appointed by
18 the Board of Natural Resources. Notwithstanding any other provision of law to the
19 contrary, the filing of such petition by persons other than the permittee, or person to
20 whom the order or action is directed, shall not automatically stay such permit, order, or
21 action. Pursuant to Code Section 9-11-65, an appropriate superior court may enjoin a
22 party from activities authorized by any such permit, order, or action while such permit,
23 order, or action is under review by an administrative law judge. The hearing before the
24 administrative law judge shall be conducted in accordance with Chapter 13 of Title 50,
25 the 'Georgia Administrative Procedure Act,' and the rules and regulations adopted by the
26 board pursuant thereto. Any administrative law judge so appointed by the board shall
27 fully meet and qualify as to all applicable conflict of interest requirements provided for

1 in Section 304(h)(2)(D) of the Federal Water Pollution Control Act of 1972, as amended,
 2 and the rules, regulations, and guidelines promulgated thereunder. The decision of the
 3 administrative law judge shall constitute the final decision of the board and any party to
 4 the hearing, including the director, shall have the right of judicial review thereof in
 5 accordance with Chapter 13 of Title 50."

6 SECTION 2.

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

10 "(a) Any person who is aggrieved or adversely affected by any order or action of the
 11 committee shall, upon petition within 30 days after the issuance of such order or taking of
 12 such action, have a right to a hearing before an administrative law judge appointed by the
 13 board. Notwithstanding any other provision of law to the contrary, the filing of such
 14 petition by persons other than the permittee, or person to whom the order or action is
 15 directed, shall not automatically stay such permit, order, or action. Pursuant to Code
 16 Section 9-11-65, an appropriate superior court may enjoin a party from activities authorized
 17 by any such permit, order, or action while such permit, order, or action is under review by
 18 an administrative law judge. The hearing before the administrative law judge shall be
 19 conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
 20 Procedure Act,' and the rules and regulations adopted by the board pursuant thereto. The
 21 decision of the administrative law judge shall constitute the final decision of the board and
 22 any party to the hearing, including the committee, shall have the right of judicial review
 23 thereof in accordance with Chapter 13 of Title 50."

24 SECTION 3.

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

29 "(b) Any person who is aggrieved or adversely affected by any order or action of the
 30 committee shall, upon petition within 30 days after the issuance of such order or the taking
 31 of such action, have a right to a hearing before an administrative law judge appointed by
 32 the board. Notwithstanding any other provision of law to the contrary, the filing of such
 33 petition by persons other than the permittee, or person to whom the order or action is
 34 directed, shall not automatically stay such permit, order, or action. Pursuant to Code
 35 Section 9-11-65, an appropriate superior court may enjoin a party from activities authorized

1 by any such permit, order, or action while such permit, order, or action is under review by
2 an administrative law judge. The hearing before the administrative law judge shall be
3 conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
4 Procedure Act,' and the rules and regulations adopted by the board pursuant thereto. The
5 decision of the administrative law judge shall constitute the final decision of the board and
6 any party to the hearing, including the committee, shall have the right of judicial review
7 thereof in accordance with Chapter 13 of Title 50."

8 **SECTION 4.**

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