

Senate Bill 190

By: Senators Tolleson of the 20th, Bulloch of the 11th, Johnson of the 1st and Pearson of the 51st

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to the  
2 Environmental Protection Division, the Environmental Advisory Council, duties of the  
3 council, its members, and the director of the division, procedure for aggrieved persons, and  
4 inspections, so as to provide that the filing of a petition in certain instances shall not result  
5 in a stay of a decision; to amend Code Section 50-13-19 of the Official Code of Georgia  
6 Annotated, relating to judicial review of contested cases, so as to provide that the filing of  
7 a petition in certain instances shall not result in a stay of a decision except under certain  
8 conditions; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to the  
12 Environmental Protection Division, the Environmental Advisory Council, duties of the  
13 council, its members, and the director of the division, procedure for aggrieved persons, and  
14 inspections, is amended by striking paragraph (2) of subsection (c) and inserting in lieu  
15 thereof the following:

16 "(2) Any person who is aggrieved or adversely affected by any order or action of the  
17 director shall, upon petition within 30 days after the issuance of such order or the taking  
18 of such action, have a right to a hearing before an administrative law judge appointed by  
19 the Board of Natural Resources. In cases involving the grant of a permit, permit  
20 amendment, or variance by the director, the filing of such a petition by any person to  
21 whom such order or action is not directed shall not stay such order or action. The hearing  
22 before the administrative law judge shall be conducted in accordance with Chapter 13 of  
23 Title 50, the 'Georgia Administrative Procedure Act,' and the rules and regulations  
24 adopted by the board pursuant thereto. Any administrative law judge so appointed by the  
25 board shall fully meet and qualify as to all applicable conflict of interest requirements

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

## 6 SECTION 2.

7 Code Section 50-13-19 of the Official Code of Georgia Annotated, relating to judicial review  
8 of contested cases, is amended by striking subsection (d) and inserting in lieu thereof the  
9 following:

10 "(d)(1) The filing of the petition does not itself stay enforcement of the agency decision.  
11 Except as otherwise provided in this subsection, the agency may grant, or the reviewing  
12 court may order, a stay upon appropriate terms for good cause shown.

13 (2) In cases involving the grant of a permit, permit amendment, or variance by the  
14 director of the Environmental Protection Division of the Department of Natural  
15 Resources in which the petition was filed by any person to whom such contested order  
16 or action in is not directed, a stay shall not be granted except upon order of the superior  
17 court after consideration of the same equitable factors applicable to grants of injunctive  
18 relief under Code Section 9-11-65.

19 (3) In contested cases involving a license to practice medicine or a license to practice  
20 dentistry in this state, a reviewing court may order a stay or an agency may grant a stay  
21 only if the court or agency makes a finding that the public health, safety, and welfare will  
22 not be harmed by the issuance of the stay."

## 23 SECTION 3.

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