

Senate Bill 190 (RULES COMMITTEE SUBSTITUTE)

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 Title 12 of the Official Code of Georgia Annotated, relating to conservation and
2 natural resources, so as to change certain provisions relating to the Environmental Protection
3 Division, the Environmental Advisory Council, duties of the council, its members, and the
4 director of the division, procedure for aggrieved persons, and inspections; to provide that the
5 filing of a petition in certain instances shall result in a limited stay of an order or action of
6 the director; to provide time limits for administrative judicial decision making; to provide for
7 exceptions; to change certain provisions relating to hearing and judicial review relative to air
8 quality; to amend Code Section 50-13-19 of the Official Code of Georgia Annotated, relating
9 to judicial review of contested cases, so as to provide that the filing of a petition in certain
10 instances shall not result in a stay of a decision except under certain conditions; to provide
11 for exceptions; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

19 "2)(A) Any person who is aggrieved or adversely affected by any order or action of
20 the director shall, upon petition to the director within 30 days after the issuance of such
21 order or the taking of such action, have a right to a hearing before an administrative law
22 judge ~~appointed by~~ of the Office of State Administrative Hearings assigned under Code
23 Section 50-13-40 and acting in place of the Board of Natural Resources. The hearing
24 before the administrative law judge shall be conducted in accordance with Chapter 13
25 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and regulations
26 adopted by the board pursuant thereto. Any administrative law judge so ~~appointed by~~

1 ~~the board assigned~~ shall fully meet and qualify as to all applicable conflict of interest
 2 requirements provided for in Section 304(h)(2)(D) of the Federal Water Pollution
 3 Control Act of 1972, as amended, and the rules, regulations, and guidelines
 4 promulgated thereunder.

5 (B) In any case involving the grant of a permit, permit amendment, or variance by the
 6 director, the filing of such a petition by a person to whom such order or action is not
 7 directed shall stay such order or action until such time as the hearing has been held and
 8 for ten days after the administrative law judge renders his or her decision on the matter.
 9 The petition shall be transmitted to the administrative law judge not more than seven
 10 days after the date of filing. The provisions of subsection (c) of Code Section 50-13-41
 11 notwithstanding, the hearing shall be held and the decision of the administrative law
 12 judge shall be rendered not later than 90 days after the date of the filing of the petition
 13 by such a person unless such period is extended for a time certain by order of the
 14 administrative law judge upon consent of all parties; in addition, the administrative law
 15 judge may extend the 90 day period for good cause shown for a period not to exceed
 16 an additional 60 days.

17 (C) The provisions of subparagraph (B) of this paragraph notwithstanding, in any case
 18 involving the grant of a permit, permit amendment, or variance by the director
 19 regarding water withdrawal for farm uses under Code Section 12-5-31 or Code Section
 20 12-5-105, the filing of a petition under subparagraph (A) of this paragraph by any
 21 person to whom such order or action is not directed shall not stay such order or action.

22 (D) The decision of the administrative law judge shall constitute the final decision of
 23 the board and any party to the hearing, including the director, shall have the right of
 24 judicial review thereof in accordance with Chapter 13 of Title 50."

25 SECTION 2.

26 Said title is further amended in Code Section 12-9-15, relating to hearing and judicial review
 27 relative to air quality, by designating the provisions of subsection (a) as paragraph (1) of said
 28 subsection and adding a new paragraph to read as follows:

29 "(2) The provisions of subparagraph (c)(2)(B) of Code Section 12-2-2 shall apply to
 30 proceedings under this Code section."
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32 SECTION 3.

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

