

Senate Bill 352

By: Senators Cowser of the 46th, Tolleson of the 20th, Bulloch of the 11th, Pearson of the 51st, Smith of the 52nd and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 50-13-4 of the Official Code of Georgia Annotated, relating to
2 procedural requirements for adoption, amendment, or repeal of rules, emergency rules,
3 limitation on actions to contest rules, and legislative override, so as to provide an alternate
4 method for a General Assembly objection to administrative rules; to provide that the
5 effectiveness of a challenged agency rule may be stayed until the General Assembly has the
6 opportunity to take action on such rule at the next legislative session; to provide for related
7 matters; to change certain exemptions from legislative override; to provide an effective date;
8 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 50-13-4 of the Official Code of Georgia Annotated, relating to procedural
12 requirements for adoption, amendment, or repeal of rules, emergency rules, limitation on
13 actions to contest rules, and legislative override, is amended by revising subsections (f), (g),
14 and (i) as follows:

15 "(f)(1) In the event a standing committee to which a notice is assigned as provided in
16 subsection (e) of this Code section files an objection to a proposed rule prior to its
17 adoption and the agency adopts the proposed rule over the objection, the rule may be
18 considered by the branch of the General Assembly whose committee objected to its
19 adoption by the introduction of a resolution for the purpose of overriding the rule at any
20 time within the first 30 days of the next regular session of the General Assembly. It shall
21 be the duty of any agency which adopts a proposed rule over such objection so to notify
22 the presiding officers of the Senate and the House of Representatives, the chairmen of the
23 Senate and House committees to which the rule was referred, and the legislative counsel
24 within ten days after the adoption of the rule. In the event the resolution is adopted by
25 such branch of the General Assembly, it shall be immediately transmitted to the other
26 branch of the General Assembly. It shall be the duty of the presiding officer of the other

1 branch of the General Assembly to have such branch, within five days after the receipt
 2 of the resolution, to consider the resolution for the purpose of overriding the rule. In the
 3 event the resolution is adopted by two-thirds of the votes of each branch of the General
 4 Assembly, the rule shall be void on the day after the adoption of the resolution by the
 5 second branch of the General Assembly. In the event the resolution is ratified by less
 6 than two-thirds of the votes of either branch, the resolution shall be submitted to the
 7 Governor for his or her approval or veto. In the event of his or her veto, the rule shall
 8 remain in effect. In the event of his or her approval, the rule shall be void on the day after
 9 the date of his or her approval.

10 (2) In the event each standing committee to which a notice is assigned as provided in
 11 subsection (e) of this Code section files an objection to a proposed rule prior to its
 12 adoption by a two-thirds' vote of the members of the committee who were voting
 13 members on the tenth day of the current session, after having given public notice of the
 14 time, place, and purpose of such vote at least 48 hours in advance, as well as the
 15 opportunity for members of the public including the promulgating agency, to have a
 16 reasonable time to comment on the proposed committee action at the hearing, the
 17 effectiveness of such rule shall be stayed until the next legislative session at which time
 18 the rule may be considered by the General Assembly by the introduction of a resolution
 19 in either branch of the General Assembly for the purpose of overriding the rule at any
 20 time within the first 30 days of the next regular session of the General Assembly. In the
 21 event the resolution is adopted by the branch of the General Assembly in which it was
 22 introduced, it shall be immediately transmitted to the other branch of the General
 23 Assembly. It shall be the duty of the presiding officer of the other branch of the General
 24 Assembly to have such branch, within five days after the receipt of the resolution, to
 25 consider the resolution for the purpose of overriding the rule. In the event the resolution
 26 is adopted by two-thirds of the votes of each branch of the General Assembly, the rule
 27 shall be void on the day after the adoption of the resolution by the second branch of the
 28 General Assembly. In the event the resolution is ratified by less than two-thirds of the
 29 votes of either branch, the resolution shall be submitted to the Governor for his or her
 30 approval or veto. In the event of his or her veto, the rule shall remain in effect. In the
 31 event of his or her approval, the rule shall be void on the day after the date of his or her
 32 approval. If after the thirtieth legislative day of the legislative session of which the
 33 challenged rule was to be considered the General Assembly has not considered an
 34 override of the challenged rule pursuant to this subsection, the rule shall then immediately
 35 take effect.

36 (g)(1) Subsection (f) of this Code section shall not apply to the Environmental Protection
 37 Division of the Department of Natural Resources as to any rule for which, as part of the

1 notice required by paragraph (1) of subsection (a) of this Code section, the director of the
 2 division certifies that such rule is required for compliance with federal statutes or
 3 regulations or to exercise certain powers delegated by the federal government to the state
 4 to implement federal statutes or regulations, but paragraph (2) of this subsection shall
 5 apply to the Environmental Protection Division of the Department of Natural Resources
 6 as to any rule so certified. As part of such certification, the director shall cite the specific
 7 section or sections of federal statutes or regulations which the proposed rule is intended
 8 to comply with or implement. General references to the name or title of a federal statute
 9 or regulation shall not suffice for the purposes of this paragraph. Any proposed rule or
 10 rules that are subject to this paragraph shall be noticed separately from any proposed rule
 11 or rules that are not subject to this paragraph.

12 (2) In the event the ~~chairman~~ chairperson of any standing committee to which a proposed
 13 rule ~~relative to the Environmental Protection Division of the Department of Natural~~
 14 ~~Resources~~ certified by the director of the division pursuant to paragraph (1) of this
 15 subsection is assigned notifies the agency director that the committee objects to the
 16 adoption of the rule or has questions concerning the purpose, nature, or necessity of ~~the~~
 17 such rule, it shall be the duty of the agency director to consult with the committee prior
 18 to the adoption of the rule."

19 "(i) This Code section shall not apply to any comprehensive state-wide water management
 20 plan or revision thereof prepared by the Environmental Protection Division of the
 21 Department of Natural Resources and proposed, adopted, amended, or repealed pursuant
 22 to Article 8 of Chapter 5 of Title 12; provided, however, that this Code section shall apply
 23 to any rules or regulations implementing such a plan."

24 SECTION 2.

25 This Act shall become effective upon its approval by the Governor or upon its becoming law
 26 without such approval.

27 SECTION 3.

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