

The House Committee on Transportation offers the following substitute to HB 131:

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 provide for fines for violations of land-disturbing activities
3 requirements; to provide for mediation of erosion and sediment control disputes by the
4 Erosion and Sediment Control Overview Council; to exempt design-build and public-private
5 partnership projects from the requirements regarding the preparation of an erosion and
6 sediment control plan; to provide for related matters; to provide for a contingent effective
7 date; to provide for automatic repeal; to repeal 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 adding a new subsection to Code Section 12-5-52, relating to civil
12 penalties for water pollution, to read as follows:

13 "(c) Any person violating this article where such violation consists of erosion and
14 sedimentation in violation of a National Pollutant Discharge Elimination System permit
15 issued pursuant to 40 C.F.R. Part 123 and such violation is alleged to have been committed
16 by a state agency, department, or authority, or any person fulfilling the requirements of a
17 contract with a state agency, department, or authority, shall not be liable for the civil
18 penalty provided for by subsection (a) of this Code section but shall be liable for a civil
19 penalty not to exceed \$5,000.00 per day for each day during which such violation
20 continues. Except as otherwise required by federal law, such penalty shall not be enforced
21 against such state agencies, departments, or authorities, or against such persons, until the
22 alleged violator has been given not less than 24 hours' written notice of such alleged
23 violation; and for not less than 30 days after receipt of such written notice, the alleged
24 violator shall be allowed to cure such alleged violation without fine or penalty."

25 **SECTION 2.**

26 Said title is further amended by revising subsection (f) and adding a new subsection to Code
 27 Section 12-7-7.1, relating to the preparation and implementation of an erosion and sediment
 28 control plan, as follows:

29 "(f)(1) There shall be an Erosion and Sediment Control Overview Council which shall
 30 provide guidance on the best management practices for implementing any erosion and
 31 sediment control plan for purposes of this Code section. The council shall be composed
 32 of ~~nine~~ seven members, including one member who shall be appointed by the Speaker of
 33 the House of Representatives and serve at the pleasure thereof; one member who shall be
 34 appointed by the Lieutenant Governor and serve at the pleasure thereof; and ~~seven~~ five
 35 members who shall be appointed by the Governor and serve at the pleasure thereof,
 36 including one employee each from the Department of Transportation; and the
 37 Environmental Protection Division of the Department of Natural Resources, ~~and the~~
 38 ~~Georgia Regional Transportation Authority~~; a professional engineer licensed to practice
 39 in this state from a private engineering consulting firm practicing environmental
 40 engineering, ~~two representatives~~ one representative of the highway contracting industry
 41 certified by the Department of Transportation, and a chairperson. The council shall meet
 42 at the call of the chairperson. Each councilmember shall receive a daily allowance in the
 43 amount specified in subsection (b) of Code Section 45-7-21; provided, however, that any
 44 full-time state employee serving on the council shall draw no compensation but shall
 45 receive necessary expenses. The commissioner is authorized to pay such compensation
 46 and expenses from department funds.

47 (2) The council may develop recommendations governing the preparation of plans and
 48 the installation and maintenance of best management practices. If a dispute concerning
 49 the requirements of this Code section should arise, the Erosion and Sediment Control
 50 Overview Council shall mediate the dispute.

51 (3) The council may also mediate any disputes, including without limitation the issuance
 52 of orders or levying of fines by the division, relating to erosion and sediment control
 53 compliance enforcement actions taken by the division against the Department of
 54 Transportation, the State Road and Tollway Authority, or persons fulfilling the
 55 requirements of a contract with the Department of Transportation or State Road and
 56 Tollway Authority. Mediation may be requested by any of the aforementioned parties
 57 by submitting a written request to the chairperson of the council. The decision of the
 58 council shall be binding upon the parties unless an appeal is taken pursuant to the
 59 procedures of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
 60 decision of the council shall be a contested case for purposes of such chapter."

61 "(h) Nothing in this Code section shall apply to projects developed under the provisions
62 of Code Section 32-2-80 or 32-2-81."

63 **SECTION 3.**

64 This Act shall become effective on July 1, 2011; provided, however, that if deemed
65 necessary by the Attorney General, the director of the Environmental Protection Division of
66 the Department of Natural Resources shall initiate a program revision pursuant to the
67 procedures of 40 C.F.R. Section 123.62, submitting the provisions of Section 1 of this Act
68 to the federal Environmental Protection Agency as a revision of the state program under the
69 National Pollutant Discharge Elimination System permit program. If such program revision
70 is not approved pursuant to 40 C.F.R. Section 123.62(3), then Section 1 of this Act shall
71 stand repealed on the date of such disapproval.

72 **SECTION 4.**

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