

Senate Bill 534

By: Senators Kennedy of the 18th, Miller of the 49th, Dugan of the 30th, Gooch of the 51st,  
Mullis of the 53rd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,  
2 so as to provide certain procedural requirements and considerations for the adoption of rules  
3 by state agencies that are applicable to charitable organizations; to provide a definition; to  
4 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
9 by revising Code Section 50-13-4, relating to procedural requirements for adoption,  
10 amendment, or repeal of rules, emergency rules, limitation on action to contest rule, and  
11 legislative override, as follows:

12 "50-13-4.

13 (a) Prior to the adoption, amendment, or repeal of any rule, other than interpretive rules  
14 or general statements of policy, the agency shall:

15 (1) Give at least 30 days' notice of its intended action. The notice shall include an exact  
16 copy of the proposed rule and a synopsis of the proposed rule. The synopsis shall be

17 distributed with and in the same manner as the proposed rule. The synopsis shall contain  
18 a statement of the purpose and the main features of the proposed rule, and, in the case of  
19 a proposed amendatory rule, the synopsis also shall indicate the differences between the  
20 existing rule and the proposed rule. The notice shall also include the exact date on which  
21 the agency shall consider the adoption of the rule and shall include the time and place in  
22 order that interested persons may present their views thereon. The notice shall also  
23 contain a citation of the authority pursuant to which the rule is proposed for adoption and,  
24 if the proposal is an amendment or repeal of an existing rule, the rule shall be clearly  
25 identified. The notice shall be mailed to all persons who have requested in writing that  
26 they be placed upon a mailing list which shall be maintained by the agency for advance  
27 notice of its rule-making proceedings and who have tendered the actual cost of such  
28 mailing as from time to time estimated by the agency;

29 (2) Afford to all interested persons reasonable opportunity to submit data, views, or  
30 arguments, orally or in writing. In the case of substantive rules, opportunity for oral  
31 hearing must be granted if requested by 25 persons who will be directly affected by the  
32 proposed rule, by a governmental subdivision, or by an association having not less than  
33 25 members. The agency shall consider fully all written and oral submissions respecting  
34 the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an  
35 interested person either prior to adoption or within 30 days thereafter, shall issue a  
36 concise statement of the principal reasons for and against its adoption and incorporate  
37 therein its reason for overruling the consideration urged against its adoption;

38 (3) In the formulation and adoption of any rule which will have an economic impact on  
39 businesses in the state, reduce the economic impact of the rule on small businesses which  
40 are independently owned and operated, are not dominant in their field, and employ 100  
41 employees or less by implementing one or more of the following actions when it is legal  
42 and feasible in meeting the stated objectives of the statutes which are the basis of the  
43 proposed rule:

- 44 (A) Establish differing compliance or reporting requirements or timetables for small  
45 businesses;
- 46 (B) Clarify, consolidate, or simplify the compliance and reporting requirements under  
47 the rule for small businesses;
- 48 (C) Establish performance rather than design standards for small businesses; or  
49 (D) Exempt small businesses from any or all requirements of the rules; and
- 50 (4) In the formulation and adoption of any rule which places administrative burdens on  
51 charitable organizations in this state, including, but not limited to, any rule that would  
52 require any new or expanded filing or reporting requirements or that would limit the  
53 ability of charitable organizations to solicit or collect funds, the agency shall:
- 54 (A) When it is legal and feasible in meeting the state objectives of the statutes which  
55 are the basis of the proposed rules:
- 56 (i) Establish less burdensome compliance and reporting requirements, frequency  
57 requirements, and timetables for charitable organizations;
- 58 (ii) Clarify, consolidate, and simplify any compliance and reporting requirements  
59 under the rule for charitable organizations and ensure that any proposed rule does not  
60 require the submission of information by charitable organizations that is currently  
61 provided to this state through other processes;
- 62 (iii) Provide an alternative for charitable organizations that does not impose  
63 additional fees, the submission of additional forms, or compliance through the  
64 disclosure of information that is not specifically sought in the statutes; and
- 65 (v) Exempt charitable organizations from any or all requirements of the rules;
- 66 (B) Include as part of the notice provided for in paragraph (1) of subsection (a) of this  
67 Code section an explanation as to how such rule takes into account the considerations  
68 set forth in subparagraph (A) of this paragraph; and

69 (C) Email the notice provided for in paragraph (1) of subsection (a) of this Code  
70 section to each chairperson of any standing committee in each house as shown on the  
71 General Assembly's website.

72 For purposes of this paragraph, the term 'charitable organization' means a nonprofit  
73 charitable organization which is exempt from taxation under the provisions of Section  
74 501(c)(3) of the United States Internal Revenue Code; and

75 ~~(4)~~(5) In the formulation and adoption of any rule, an agency shall choose an alternative  
76 that does not impose excessive regulatory costs on any regulated person or entity which  
77 costs could be reduced by a less expensive alternative that fully accomplishes the stated  
78 objectives of the statutes which are the basis of the proposed rule.

79 (b) If any agency finds that an imminent peril to the public health, safety, or welfare,  
80 including but not limited to, summary processes such as quarantines, contrabands, seizures,  
81 and the like authorized by law without notice, requires adoption of a rule upon fewer than  
82 30 days' notice and states in writing its reasons for that finding, it may proceed without  
83 prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable  
84 to adopt an emergency rule. Any such rule adopted relative to a public health emergency  
85 shall be submitted as promptly as reasonably practicable to the House of Representatives  
86 and Senate Committees on Judiciary, provided that any such rule adopted relative to a state  
87 of emergency by the State Election Board shall be submitted as soon as practicable but not  
88 later than 20 days prior to the rule taking effect. Any emergency rule adopted by the State  
89 Election Board pursuant to the provisions of this subsection may be suspended upon the  
90 majority vote of the House of Representatives or Senate Committees on Judiciary within  
91 ten days of the receipt of such rule by the committees. The rule may be effective for a  
92 period of not longer than 120 days but the adoption of an identical rule under paragraphs  
93 (1) and (2) of subsection (a) of this Code section is not precluded; provided, however, that  
94 such a rule adopted pursuant to discharge of responsibility under an executive order  
95 declaring a state of emergency or disaster exists as a result of a public health emergency,

96 as defined in Code Section 38-3-3, shall be effective for the duration of the emergency or  
97 disaster and for a period of not more than 120 days thereafter.

98 (c) It is the intent of this Code section to establish basic minimum procedural requirements  
99 for the adoption, amendment, or repeal of administrative rules. Except for emergency rules  
100 which are provided for in subsection (b) of this Code section, the provisions of this Code  
101 section are applicable to the exercise of any rule-making authority conferred by any statute,  
102 but nothing in this Code section repeals or diminishes additional requirements imposed by  
103 law or diminishes or repeals any summary power granted by law to the state or any agency  
104 thereof.

105 (d) No rule adopted after April 3, 1978, shall be valid unless adopted in exact compliance  
106 with subsections (a) and (e) of this Code section and in substantial compliance with the  
107 remainder of this Code section. A proceeding to contest any rule on the ground of  
108 noncompliance with the procedural requirements of this Code section must be commenced  
109 within two years from the effective date of the rule.

110 (e) The agency shall transmit the notice provided for in paragraph (1) of subsection (a) of  
111 this Code section to the legislative counsel. The notice shall be transmitted at least 30 days  
112 prior to the date of the agency's intended action. Within three days after receipt of the  
113 notice, if possible, the legislative counsel shall furnish the presiding officers of each house  
114 with a copy of the notice, and the presiding officers shall assign the notice to the  
115 chairperson of the appropriate standing committee in each house for review and any  
116 member thereof who makes a standing written request. In the event a presiding officer is  
117 unavailable for the purpose of making the assignment within the time limitations, the  
118 legislative counsel shall assign the notice to the chairperson of the appropriate standing  
119 committee. The legislative counsel shall also transmit within the time limitations provided  
120 in this subsection a notice of the assignment to the chairperson of the appropriate standing  
121 committee. Each standing committee of the Senate and the House of Representatives is

122 granted all the rights provided for interested persons and governmental subdivisions in  
123 paragraph (2) of subsection (a) of this Code section.

124 (f)(1) In the event a standing committee to which a notice is assigned as provided in  
125 subsection (e) of this Code section files an objection to a proposed rule prior to its  
126 adoption and the agency adopts the proposed rule over the objection, the rule may be  
127 considered by the branch of the General Assembly whose committee objected to its  
128 adoption by the introduction of a resolution for the purpose of overriding the rule at any  
129 time within the first 30 days of the next regular session of the General Assembly. It shall  
130 be the duty of any agency which adopts a proposed rule over such objection so to notify  
131 the presiding officers of the Senate and the House of Representatives, the chairpersons  
132 of the Senate and House committees to which the rule was referred, and the legislative  
133 counsel within ten days after the adoption of the rule. In the event the resolution is  
134 adopted by such branch of the General Assembly, it shall be immediately transmitted to  
135 the other branch of the General Assembly. It shall be the duty of the presiding officer of  
136 the other branch of the General Assembly to have such branch, within five days after the  
137 receipt of the resolution, to consider the resolution for the purpose of overriding the rule.  
138 In the event the resolution is adopted by two-thirds of the votes of each branch of the  
139 General Assembly, the rule shall be void on the day after the adoption of the resolution  
140 by the second branch of the General Assembly. In the event the resolution is ratified by  
141 less than two-thirds of the votes of either branch, the resolution shall be submitted to the  
142 Governor for his or her approval or veto. In the event of his or her veto, the rule shall  
143 remain in effect. In the event of his or her approval, the rule shall be void on the day after  
144 the date of his or her approval.

145 (2) In the event each standing committee to which a notice is assigned as provided in  
146 subsection (e) of this Code section files an objection to a proposed rule prior to its  
147 adoption by a two-thirds' vote of the members of the committee who were voting  
148 members on the tenth day of the current session, after having given public notice of the

149 time, place, and purpose of such vote at least 48 hours in advance, as well as the  
150 opportunity for members of the public including the promulgating agency, to have a  
151 reasonable time to comment on the proposed committee action at the hearing, the  
152 effectiveness of such rule shall be stayed until the next legislative session at which time  
153 the rule may be considered by the General Assembly by the introduction of a resolution  
154 in either branch of the General Assembly for the purpose of overriding the rule at any  
155 time within the first 30 days of the next regular session of the General Assembly. In the  
156 event the resolution is adopted by the branch of the General Assembly in which it was  
157 introduced, it shall be immediately transmitted to the other branch of the General  
158 Assembly. It shall be the duty of the presiding officer of the other branch of the General  
159 Assembly to have such branch, within five days after the receipt of the resolution, to  
160 consider the resolution for the purpose of overriding the rule. In the event the resolution  
161 is adopted by two-thirds of the votes of each branch of the General Assembly, the rule  
162 shall be void on the day after the adoption of the resolution by the second branch of the  
163 General Assembly. In the event the resolution is ratified by less than two-thirds of the  
164 votes of either branch, the resolution shall be submitted to the Governor for his or her  
165 approval or veto. In the event of his or her veto, the rule shall remain in effect. In the  
166 event of his or her approval, the rule shall be void on the day after the date of his or her  
167 approval. If after the thirtieth legislative day of the legislative session of which the  
168 challenged rule was to be considered the General Assembly has not considered an  
169 override of the challenged rule pursuant to this subsection, the rule shall then immediately  
170 take effect.

171 (g)(1) Subsection (f) of this Code section shall not apply to the Environmental Protection  
172 Division of the Department of Natural Resources as to any rule for which, as part of the  
173 notice required by paragraph (1) of subsection (a) of this Code section, the director of the  
174 division certifies that such rule is required for compliance with federal statutes or  
175 regulations or to exercise certain powers delegated by the federal government to the state

176 to implement federal statutes or regulations, but paragraph (2) of this subsection shall  
177 apply to the Environmental Protection Division of the Department of Natural Resources  
178 as to any rule so certified. As part of such certification, the director shall cite the specific  
179 section or sections of federal statutes or regulations which the proposed rule is intended  
180 to comply with or implement. General references to the name or title of a federal statute  
181 or regulation shall not suffice for the purposes of this paragraph. Any proposed rule or  
182 rules that are subject to this paragraph shall be noticed separately from any proposed rule  
183 or rules that are not subject to this paragraph.

184 (2) In the event the chairperson of any standing committee to which a proposed rule  
185 certified by the director of the division pursuant to paragraph (1) of this subsection is  
186 assigned notifies the director that the committee objects to the adoption of the rule or has  
187 questions concerning the purpose, nature, or necessity of such rule, it shall be the duty of  
188 the director to consult with the committee prior to the adoption of the rule.

189 (h) The provisions of subsections (e) and (f) of this Code section shall apply to any rule  
190 of the Department of Public Health that is promulgated pursuant to Code Section 31-2A-11  
191 or 31-45-10, except that the presiding officer of the Senate is directed to assign the notice  
192 of such a rule to the chairperson of the Senate Science and Technology Committee and the  
193 presiding officer of the House of Representatives is directed to assign the notice of such  
194 a rule to the chairperson of the House Committee on Industry and Labor. As used in this  
195 subsection, the term 'rule' shall have the same meaning as provided in paragraph (6) of  
196 Code Section 50-13-2 and shall include interpretive rules and general statements of policy,  
197 notwithstanding any provision of subsection (a) of this Code section to the contrary.

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

203

**SECTION 2.**

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

206

**SECTION 3.**

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