

The House Committee on Governmental Affairs offers the following substitute to SB 534:

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

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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 or official shall:
- 54 (A) Absent the showing of a compelling state interest, not impose any annual filing or
 55 reporting requirements on an organization regulated or specifically exempted from
 56 regulation under the Chapter 17 of Title 43, the 'Georgia Charitable Solicitations Act
 57 of 1988,' that are more burdensome than the requirements authorized by applicable law,
 58 and any such filing or reporting requirements shall be narrowly tailored to achieve such
 59 compelling state interest. The requirements of this subparagraph shall not apply to the
 60 state's direct spending programs; and
- 61 (B) Email the notice provided for in paragraph (1) of this subsection to each
 62 chairperson of any standing committee in each house as shown on the General
 63 Assembly's website.
- 64 For purposes of this paragraph, the term 'charitable organization' means a nonprofit
 65 charitable organization which is exempt from taxation under the provisions of Section
 66 501(c)(3) of the United States Internal Revenue Code; and
- 67 ~~(4)~~(5) In the formulation and adoption of any rule, an agency shall choose an alternative
 68 that does not impose excessive regulatory costs on any regulated person or entity which
 69 costs could be reduced by a less expensive alternative that fully accomplishes the stated
 70 objectives of the statutes which are the basis of the proposed rule.

71 (b) If any agency finds that an imminent peril to the public health, safety, or welfare,
72 including but not limited to, summary processes such as quarantines, contrabands, seizures,
73 and the like authorized by law without notice, requires adoption of a rule upon fewer than
74 30 days' notice and states in writing its reasons for that finding, it may proceed without
75 prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable
76 to adopt an emergency rule. Any such rule adopted relative to a public health emergency
77 shall be submitted as promptly as reasonably practicable to the House of Representatives
78 and Senate Committees on Judiciary, provided that any such rule adopted relative to a state
79 of emergency by the State Election Board shall be submitted as soon as practicable but not
80 later than 20 days prior to the rule taking effect. Any emergency rule adopted by the State
81 Election Board pursuant to the provisions of this subsection may be suspended upon the
82 majority vote of the House of Representatives or Senate Committees on Judiciary within
83 ten days of the receipt of such rule by the committees. The rule may be effective for a
84 period of not longer than 120 days but the adoption of an identical rule under paragraphs
85 (1) and (2) of subsection (a) of this Code section is not precluded; provided, however, that
86 such a rule adopted pursuant to discharge of responsibility under an executive order
87 declaring a state of emergency or disaster exists as a result of a public health emergency,
88 as defined in Code Section 38-3-3, shall be effective for the duration of the emergency or
89 disaster and for a period of not more than 120 days thereafter.

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

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

102 (e) The agency shall transmit the notice provided for in paragraph (1) of subsection (a) of
103 this Code section to the legislative counsel. The notice shall be transmitted at least 30 days
104 prior to the date of the agency's intended action. Within three days after receipt of the
105 notice, if possible, the legislative counsel shall furnish the presiding officers of each house
106 with a copy of the notice, and the presiding officers shall assign the notice to the
107 chairperson of the appropriate standing committee in each house for review and any
108 member thereof who makes a standing written request. In the event a presiding officer is
109 unavailable for the purpose of making the assignment within the time limitations, the
110 legislative counsel shall assign the notice to the chairperson of the appropriate standing
111 committee. The legislative counsel shall also transmit within the time limitations provided
112 in this subsection a notice of the assignment to the chairperson of the appropriate standing
113 committee. Each standing committee of the Senate and the House of Representatives is
114 granted all the rights provided for interested persons and governmental subdivisions in
115 paragraph (2) of subsection (a) of this Code section.

116 (f)(1) In the event a standing committee to which a notice is assigned as provided in
117 subsection (e) of this Code section files an objection to a proposed rule prior to its
118 adoption and the agency adopts the proposed rule over the objection, the rule may be
119 considered by the branch of the General Assembly whose committee objected to its
120 adoption by the introduction of a resolution for the purpose of overriding the rule at any
121 time within the first 30 days of the next regular session of the General Assembly. It shall
122 be the duty of any agency which adopts a proposed rule over such objection so to notify
123 the presiding officers of the Senate and the House of Representatives, the chairpersons

124 of the Senate and House committees to which the rule was referred, and the legislative
125 counsel within ten days after the adoption of the rule. In the event the resolution is
126 adopted by such branch of the General Assembly, it shall be immediately transmitted to
127 the other branch of the General Assembly. It shall be the duty of the presiding officer of
128 the other branch of the General Assembly to have such branch, within five days after the
129 receipt of the resolution, to consider the resolution for the purpose of overriding the rule.
130 In the event the resolution is adopted by two-thirds of the votes of each branch of the
131 General Assembly, the rule shall be void on the day after the adoption of the resolution
132 by the second branch of the General Assembly. In the event the resolution is ratified by
133 less than two-thirds of the votes of either branch, the resolution shall be submitted to the
134 Governor for his or her approval or veto. In the event of his or her veto, the rule shall
135 remain in effect. In the event of his or her approval, the rule shall be void on the day after
136 the date of his or her approval.

137 (2) In the event each standing committee to which a notice is assigned as provided in
138 subsection (e) of this Code section files an objection to a proposed rule prior to its
139 adoption by a two-thirds' vote of the members of the committee who were voting
140 members on the tenth day of the current session, after having given public notice of the
141 time, place, and purpose of such vote at least 48 hours in advance, as well as the
142 opportunity for members of the public including the promulgating agency, to have a
143 reasonable time to comment on the proposed committee action at the hearing, the
144 effectiveness of such rule shall be stayed until the next legislative session at which time
145 the rule may be considered by the General Assembly by the introduction of a resolution
146 in either branch of the General Assembly for the purpose of overriding the rule at any
147 time within the first 30 days of the next regular session of the General Assembly. In the
148 event the resolution is adopted by the branch of the General Assembly in which it was
149 introduced, it shall be immediately transmitted to the other branch of the General
150 Assembly. It shall be the duty of the presiding officer of the other branch of the General

151 Assembly to have such branch, within five days after the receipt of the resolution, to
152 consider the resolution for the purpose of overriding the rule. In the event the resolution
153 is adopted by two-thirds of the votes of each branch of the General Assembly, the rule
154 shall be void on the day after the adoption of the resolution by the second branch of the
155 General Assembly. In the event the resolution is ratified by less than two-thirds of the
156 votes of either branch, the resolution shall be submitted to the Governor for his or her
157 approval or veto. In the event of his or her veto, the rule shall remain in effect. In the
158 event of his or her approval, the rule shall be void on the day after the date of his or her
159 approval. If after the thirtieth legislative day of the legislative session of which the
160 challenged rule was to be considered the General Assembly has not considered an
161 override of the challenged rule pursuant to this subsection, the rule shall then immediately
162 take effect.

163 (g)(1) Subsection (f) of this Code section shall not apply to the Environmental Protection
164 Division of the Department of Natural Resources as to any rule for which, as part of the
165 notice required by paragraph (1) of subsection (a) of this Code section, the director of the
166 division certifies that such rule is required for compliance with federal statutes or
167 regulations or to exercise certain powers delegated by the federal government to the state
168 to implement federal statutes or regulations, but paragraph (2) of this subsection shall
169 apply to the Environmental Protection Division of the Department of Natural Resources
170 as to any rule so certified. As part of such certification, the director shall cite the specific
171 section or sections of federal statutes or regulations which the proposed rule is intended
172 to comply with or implement. General references to the name or title of a federal statute
173 or regulation shall not suffice for the purposes of this paragraph. Any proposed rule or
174 rules that are subject to this paragraph shall be noticed separately from any proposed rule
175 or rules that are not subject to this paragraph.

176 (2) In the event the chairperson of any standing committee to which a proposed rule
177 certified by the director of the division pursuant to paragraph (1) of this subsection is

178 assigned notifies the director that the committee objects to the adoption of the rule or has
179 questions concerning the purpose, nature, or necessity of such rule, it shall be the duty of
180 the director to consult with the committee prior to the adoption of the rule.

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

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

195 **SECTION 2.**

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

198 **SECTION 3.**

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