

The Senate Committee on Economic Development and Tourism offered the following substitute to SB 2:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 60 of Title 36, Chapter 1 of Title 43, and Title 50 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, general provisions regarding professions and businesses, and state government, respectively, so as to modify the imposition of regulations on businesses and professions at the state and local levels; to provide for definitions; to provide for schedules of fees and timelines for permits, licenses, and other regulatory requirements; to provide for reduced fees when such deadlines are not met; to provide for expedited processing of licenses and permits; to provide for certain transferred professional licenses; to provide for exceptions; to streamline the collection of personal information; to provide for notices and timing for certain regulatory inspections; to provide for the development of a ready for partnership certification for each county and municipality by the Department of Community Affairs; to revise the procedure by which a state agency modifies its rules; to change the vote requirement for legislative objections to proposed rule making; to provide a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "FAST Act - Fairness, Accountability, Simplification, and Transparency - Empowering Our Small Businesses to Succeed."

SECTION 2.

Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, is amended by adding a new Code section to read as follows:

"36-60-27.

(a) As used in this Code section, the term:

(1) 'Administrative fee' means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

(2) 'Occupation tax' means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business and enacted by a local government as a revenue-raising ordinance or resolution.

(3) 'Regulatory fee' means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business other than occupation taxes and administrative fees.

(4) 'Regulatory requirement' means an ordinance, resolution, rule, or regulation that affects an occupation, a profession, or the establishment or operation of a business.

(b) Each county or municipality which imposes regulatory fees or regulatory requirements within its jurisdiction shall establish a schedule of such regulatory fees and regulatory requirements within its jurisdiction which shall include timelines necessary for processing completed applications and a list of all documentation related to such regulatory requirements.

(c)(1) Upon receipt of any application related to regulatory requirements that necessitates a regulatory fee, a county or municipality shall require the applicant to pay 50 percent of regulatory fees due.

(2) Each county or municipality shall notify each applicant upon receipt and verification that an application is complete.

(3) Whenever the county or municipality does not meet an established deadline for processing a completed application, the regulatory fees associated with such deadline shall be reduced by 10 percent of the original fee for each ten days that the county or municipality fails to meet its established deadline.

(4)(A) Upon approval of an application, each county or municipality shall notify and inform the applicant of the amount of regulatory fees due, reduced by the amount, if any, required by paragraph (3) of this subsection, and shall require payment of such fees due prior to the issuance of any license, certificate, or permit.

(B) If the amount of regulatory fees due has been reduced by more than 50 percent of the original fee, such county or municipality shall issue the license, certificate, or permit along with any refund of regulatory fees due to the applicant.

(5) Any delay in the processing of an application outside the control of the county or municipality that is processing the application and that is directly caused by or attributable to a natural disaster, a state of emergency, or a mandated federal or state agency review or approval shall not count toward days for the purposes of this

subsection; provided, however, that the possibility of such delay is included in the schedule required pursuant to subsection (b) of this Code section.

(d) Each county or municipality which imposes regulatory requirements shall establish an expedited licensing and permitting process which will give priority processing for such licenses or permits for which the county or municipality is authorized to charge an additional fee in an amount not to exceed two times the regulatory fee for the license or permit for which the applicant is requesting expedited processing. The expedited licensing and permitting process shall remain subject to the conditions imposed by subsection (c) of this Code section.

(e) Each county or municipality in this state shall annually review its activities which require the collection of personal information and determine whether such information could be shared with or acquired from other agencies of government rather than requiring licensed or regulated individuals or entities to provide such information to multiple agencies.

(f) This Code section shall not apply to any proprietary function of a county or municipality.

(g) Nothing in this Code section shall be construed to create a private cause of action in any person or entity other than the applicant for the license or permit.

(h) To the extent, if any, that a provision of this Code section prevents a county or municipality from receiving federal funds, such provision shall not apply."

SECTION 3.

Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions regarding professions and businesses, is amended by revising Code Section 43-1-8, which was previously reserved, as follows:

"43-1-8.

(a)(1) Each professional licensing board established pursuant to this title shall, not later than January 1, 2018, or six months after the creation of such board, whichever is later, establish provisions for the issuance of transferred licenses to individuals whose legal residence is located in this state who have been licensed for such profession in another state whose criteria for licensing has been determined by such board to meet or exceed the qualifications for licensing in this state; provided, however, that, if a professional licensing board promulgates by rule that the issuance of such transferred licenses would pose a significant danger to the life, health, or safety of the public, then the board shall not be required to issue such transferred licenses.

(2) A transferred license shall not be issued to an individual whose comparable license was ever suspended or revoked.

(b) Each professional licensing board established pursuant to this title shall, not later than January 1, 2018, or six months after the creation of such board, whichever is later, review its activities which require the collection of personal information and determine whether such information could be shared with or acquired from other government agencies rather than requiring licensed or regulated individuals and businesses to provide such information to multiple agencies.

(c)(1) Effective January 1, 2018, each professional licensing board which engages in site visits for the purpose of verifying compliance with its rules and regulations by licensees shall only make such site visits after providing reasonable notice to the licensee of the date and time of such site visit. When possible, such site visits shall be scheduled during nonpeak hours of the licensee to minimize disruption of the licensee's business.

(2) Notwithstanding paragraph (1) of this subsection, surprise visits or inspections related to health, safety, or welfare may continue unabated.

(d) During each interaction with a licensee, each professional licensing board shall offer to provide information on how such licensee can participate in the rule-making processes of the board and how to request waivers or variances from related rules and regulations, if any are available.

(e) To the extent, if any, that a provision of this Code section prevents a professional licensing board from receiving federal funds, such provision shall not apply. Reserved."

SECTION 4.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended in Chapter 1, relating to general provisions regarding state government, by adding a new Code section to read as follows:

"50-1-10.

(a) As used in this Code section, the term:

(1) 'Regulatory fee' means payments, whether designated as license fees, permit fees, or by another name, which are required by a state agency as a part of or as an aid to regulation of an occupation, profession, or business.

(2) 'Regulatory requirement' means an ordinance, resolution, rule, or regulation that affects an occupation, a profession, or the establishment or operation of a business.

(3) 'State agency' means every state department, agency, bureau, office, commission, public corporation, and authority.

(b) Each state agency which imposes regulatory fees or regulatory requirements within its jurisdiction shall establish a schedule of such regulatory fees and regulatory requirements which shall include timelines necessary for processing completed applications and a list of all documentation related to such regulatory requirements.

(c)(1) Upon receipt of any application related to regulatory requirements that necessitates a regulatory fee, a state agency shall require the applicant to pay 50 percent of regulatory fees due.

(2) Each state agency shall notify each applicant upon receipt and verification that an application is complete.

(3) Whenever the state agency does not meet an established deadline for processing a completed application, the regulatory fees associated with such deadline shall be reduced by 10 percent of the original fee for each ten days that the state agency fails to meet its established deadline.

(4)(A) Upon approval of an application, each state agency shall notify and inform the applicant of the amount of regulatory fees due, reduced by the amount, if any, required by paragraph (3) of this subsection, and shall require payment of such fees due prior to the issuance of any license, certificate, or permit.

(B) If the amount of regulatory fees due has been reduced by more than 50 percent of the original fee, such state agency shall issue the license, certificate, or permit along with any refund of regulatory fees due to the applicant.

(5) Any delay in the processing of an application outside the control of the state agency that is processing the application and that is directly caused by or attributable to a natural disaster, a state of emergency, a mandated federal review or approval, or another state agency's review or approval shall not count toward days for the purposes of this subsection; provided, however, that the possibility of such delay is included in the schedule required pursuant to subsection (b) of this Code section.

(d) Each state agency which imposes regulatory requirements shall establish an expedited licensing and permitting process which will give priority processing for such licenses or permits for which the state agency is authorized to charge an additional fee in an amount not to exceed two times the regulatory fee for the license or permit for which the applicant is requesting expedited processing. The expedited licensing and permitting process shall remain subject to the conditions imposed by subsection (c) of this Code section.

(e) Each state agency shall annually review its activities which require the collection of personal information and determine whether such information could be shared with or acquired from other agencies of government rather than requiring licensed or regulated individuals or entities to provide such information to multiple agencies.

(f)(1) Effective January 1, 2018, each state agency which engages in site visits for the purpose of verifying compliance with its rules and regulations by licensees shall only make such site visits after providing reasonable notice to the licensee of the date and time of such site visit. When possible, such site visits shall be scheduled during nonpeak hours of the licensee to minimize disruption of the licensee's business.

(2) Notwithstanding paragraph (1) of this subsection, surprise visits or inspections related to health, safety, or welfare may continue unabated.

(g) Nothing in this Code section shall be applicable to the licensing and permitting duties of the Environmental Protection Division of the Department of Natural Resources under Chapter 5, 7, 9, 12, 13, or 14 of Title 12 or to the responsibilities of the Environmental Protection Division for licensing and permitting or other delegated duties under the federal Clean Air Act, Clean Water Act, or any other federal statute or regulation, or contract or agreement with the United States Army Corps of Engineers.

(h) Nothing in this Code section shall be construed to create a private cause of action in any person or entity other than the applicant for the license or permit.

(i) During each interaction with a licensee, each professional licensing board shall offer to provide information on how such licensee can participate in the rule-making processes of the board and how to request waivers or variances from related rules and regulations, if any are available.

(j) To the extent, if any, that a provision of this Code section prevents a state agency from receiving federal funds, such provision shall not apply."

SECTION 5.

Said title is further amended in Chapter 8, relating to the Department of Community Affairs, by adding a new article to read as follows:

"ARTICLE 13

50-8-300.

(a) The Department of Community Affairs shall establish a voluntary certification program for each county and municipality in this state that shall be known as Ready for Partnership Georgia.

(b)(1) There shall be a council created to establish metrics in accordance with subsection (c) of this Code section for certifying counties and municipalities as Ready for Partnership Georgia certified and to provide for a process of review, renewal, and revocation of such certifications.

(2) Such council shall be chaired by the commissioner of the Department of Community Affairs, who shall be a voting member, and shall be composed of 12 additional members as follows:

(A) Three members to be appointed by the Governor;

(B) Three members to be appointed by the President of the Senate;

(C) Three members to be appointed by the Speaker of the House of Representatives;

(D) One member to be recommended by the Georgia Municipal Association and approved by the Governor;

(E) One member to be recommended by the Association County Commissioners of Georgia and approved by the Governor; and

(F) One member to be recommended by the Georgia Chamber of Commerce and approved by the Governor.

(c) The certification shall be based upon metrics which shall include, but are not limited to:

(1) Licensing and permitting fees charged by the county or municipality;

(2) The time required by the county or municipality to process applications for licenses and permits and other regulatory requirements for businesses and professions in the county or municipality;

(3) The manner by which dispute resolution over such licensing, permitting, and regulatory requirements is handled;

(4) The consolidation of forms and documents to avoid repetitive or duplicative requests for information; and

(5) Other items which are determined by the council to be relevant to the development of such certification."

SECTION 6.

Said title is further amended in Code Section 50-13-4, relating to procedural requirements for adoption, amendment, or repeal of rules, emergency rules, limitation on action to contest rule, and legislative override, by revising subsections (a) and (f) as follows:

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

(1) Give at least 30 days' notice of its ~~intended action~~ intent to modify its rules. The notice shall include an exact copy of the proposed ~~rule~~ modification to its rules and a synopsis of the proposed ~~rule~~ modification to its rules. The synopsis shall be distributed with and in the same manner as the proposed ~~rule~~ modification to its rules. The synopsis shall contain a statement of the purpose and the main features of the proposed ~~rule~~, ~~and,~~ ~~in the case of a proposed amendatory rule, the synopsis also shall indicate~~ modification to its rules, and, when applicable, the differences between the existing rule and the proposed rule. The notice shall also include the exact date on which the agency shall consider the adoption, amendment, or repeal of the rule and shall include the time and place in order that interested persons may present their views thereon. The notice shall also contain a citation to and concise explanation of the statutory authority pursuant to which the rule is proposed for adoption, amendment, or repeal and, if the proposal is an

amendment or repeal of an existing rule, the ~~rule~~ modification to the rules shall be clearly identified. The notice shall also include a certification that such proposed modification to its rules has been reviewed by the Attorney General and that the Attorney General has found such proposed modification to be within the agency's statutory authority to adopt. The notice shall be mailed to all persons who have requested in writing that they be placed upon a mailing list which shall be maintained by the agency for advance notice of its rule-making proceedings and who have tendered the actual cost of such mailing as from time to time estimated by the agency. Such notice shall also be published on the agency's web page and sent to each individual or entity regulated by the agency by e-mail to the extent the agency has a record of a valid e-mail address for such individual or entity;

(1.1) Prepare an economic impact analysis for each proposed modification to its rules that would affect revenue for or require expenditures by the state or a local government which shall state the name and title of the officer or employee responsible for its preparation or approval and which shall state for each year of the first five years that the proposed rule would be in effect:

(A) The additional estimated costs to the state and to local governments as a result of enforcing or administering the rules as modified;

(B) The estimated reduction in costs to the state and to local governments as a result of enforcing or administering the rules as modified;

(C) The estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rules as modified; and

(D) If applicable, that enforcement or administration of the rules as modified would not have foreseeable implications relating to costs or revenues of the state or local governments;

(1.2) Prepare a note about public benefits and costs showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the proposed modification to its rules would be in effect:

(A) The public benefits expected as a result of the modification of its rules; and

(B) The probable economic costs to persons required to comply with the rules as modified;

(2) Afford to all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In the case of substantive rules, opportunity for oral hearing must be granted if requested by 25 persons who will be directly affected by the proposed rule, by a governmental subdivision, or by an association having not less than 25 members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so

by an interested person either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption;

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

(A) Establish differing compliance or reporting requirements or timetables for small businesses;

(B) Clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses;

(C) Establish performance rather than design standards for small businesses; or

(D) Exempt small businesses from any or all requirements of the rules; and

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

"(f)(1) In the event a standing committee to which a notice is assigned as provided in subsection (e) of this Code section files an objection which has been approved by a majority vote of such committee to a proposed rule prior to its adoption and the agency adopts the proposed rule over the objection, the rule may be considered by the branch of the General Assembly whose committee objected to its adoption by the introduction of a resolution for the purpose of overriding the rule at any time within the first 30 days of the next regular session of the General Assembly. It shall be the duty of any agency which adopts a proposed rule over such objection so to notify the presiding officers of the Senate and the House of Representatives, the chairpersons of the Senate and House committees to which the rule was referred, and the legislative counsel within ten days after the adoption of the rule. In the event the resolution is adopted by such branch of the General Assembly, it shall be immediately transmitted to the other branch of the General Assembly. It shall be the duty of the presiding officer of the other branch of the General Assembly to have such branch, within five days after the receipt of the resolution, to consider the resolution for the purpose of overriding the rule. In the event the resolution is adopted by ~~two-thirds~~ a majority of the votes of each branch of the General Assembly, the rule shall be void on the day after the adoption of the resolution by the second branch of the General Assembly. ~~In the event the resolution is ratified by less than two-thirds~~

314 ~~of the votes of either branch, the resolution shall be submitted to the Governor for his or~~
315 ~~her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the~~
316 ~~event of his or her approval, the rule shall be void on the day after the date of his or her~~
317 ~~approval.~~

318 (2) In the event each standing committee to which a notice is assigned as provided in
319 subsection (e) of this Code section files an objection to a proposed rule prior to its
320 adoption by a two-thirds' vote of the members of the committee who were voting
321 members on the tenth day of the current session, after having given public notice of the
322 time, place, and purpose of such vote at least 48 hours in advance, as well as the
323 opportunity for members of the public including the promulgating agency, to have a
324 reasonable time to comment on the proposed committee action at the hearing, the
325 effectiveness of such rule shall be stayed until the next legislative session at which time
326 the rule may be considered by the General Assembly by the introduction of a resolution
327 in either branch of the General Assembly for the purpose of overriding the rule at any
328 time within the first 30 days of the next regular session of the General Assembly. In the
329 event the resolution is adopted by the branch of the General Assembly in which it was
330 introduced, it shall be immediately transmitted to the other branch of the General
331 Assembly. It shall be the duty of the presiding officer of the other branch of the General
332 Assembly to have such branch, within five days after the receipt of the resolution, to
333 consider the resolution for the purpose of overriding the rule. In the event the resolution
334 is adopted by ~~two-thirds~~ a majority of the votes of each branch of the General Assembly,
335 the rule shall be void on the day after the adoption of the resolution by the second branch
336 of the General Assembly. ~~In the event the resolution is ratified by less than two-thirds~~
337 ~~of the votes of either branch, the resolution shall be submitted to the Governor for his or~~
338 ~~her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the~~
339 ~~event of his or her approval, the rule shall be void on the day after the date of his or her~~
340 ~~approval.~~ If after the thirtieth legislative day of the legislative session of which the
341 challenged rule was to be considered the General Assembly has not considered an
342 override of the challenged rule pursuant to this subsection, the rule shall then immediately
343 take effect."

344 SECTION 7.

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