

Senate Bill 67

By: Senators Albers of the 56th, Mullis of the 53rd, Ligon, Jr. of the 3rd, Payne of the 54th, Harbin of the 16th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to
2 administrative procedure, so as to provide requirements relative to the formulation, drafting,
3 and adoption of rules or amendments to existing rules; to provide for definitions; to provide
4 for advisory committees; to provide for cost-benefit analyses; to provide for public records;
5 to provide for notices and the contents thereof; to provide for reduction of the economic
6 impact of rules and amendments on small businesses and citizens; to provide for and change
7 certain existing procedures relating to the review of proposed rules by committees of the
8 General Assembly and the procedures connected therewith; to provide for hearings and
9 reports; to provide for the periodic review of rules; to provide for additional duties of
10 agencies; to provide for related matters; to amend Titles 27, 28, 31, 33, and 50 of the Official
11 Code of Georgia Annotated, relating to game and fish, General Assembly, health, insurance,
12 and state government, respectively, so as to correct and conform cross-references; to provide
13 for a short title, legislative findings, and statement of purpose; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 This Act shall be known and may be cited as the "Bring Small Businesses Back Georgia
18 Regulatory Reform Act."

19 **SECTION 2.**

20 The General Assembly of Georgia finds that real opportunity is created by free enterprise,
21 not government. Unnecessary government regulations can smother the flame of small
22 business and creativity. In fact, government regulation can be the biggest threat to the
23 survival of small business. Every Georgia family pays thousands of dollars to comply with
24 federal and state regulations. These regulations cost businesses by reducing profits, lowering
25 salaries, and increasing costs to consumers. The cost of regulations is more than a hidden

tax on consumers; regulations also cost jobs. It is the purpose of this Act to limit the future ability of agencies to write and implement regulations that stifle business and cost consumers without affecting their ability to protect the health and safety of Georgians.

SECTION 3.

Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to administrative procedure, is amended by revising 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, as follows:

"50-13-4.

(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. The notice shall include an exact copy of the proposed rule and a synopsis of the proposed rule. The synopsis shall be distributed with and in the same manner as the proposed rule. 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 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 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 of the authority pursuant to which the rule is proposed for adoption and, if the proposal is an amendment or repeal of an existing rule, the rule shall be clearly identified. 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;~~

~~(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.

(b) If any agency finds that an imminent peril to the public health, safety, or welfare, including but not limited to, summary processes such as quarantines, contrabands, seizures, and the like authorized by law without notice, requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. Any such rule adopted relative to a public health emergency shall be submitted as promptly as reasonably practicable to the House of Representatives and Senate Committees on Judiciary. The rule may be effective for a period of not longer than 120 days but the adoption of an identical rule under paragraphs (1) and (2) of subsection (a) of this Code section is not precluded; provided, however, that such a rule adopted pursuant to discharge of responsibility under an executive order declaring a state of emergency or disaster exists as a result of a public health emergency, as defined in Code Section 38-3-3, shall be effective for the duration of the emergency or disaster and for a period of not more than 120 days thereafter.

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

(d) No rule adopted after April 3, 1978, shall be valid unless adopted in exact compliance 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~~

to comply with or implement. General references to the name or title of a federal statute or regulation shall not suffice for the purposes of this paragraph. Any proposed rule or rules that are subject to this paragraph shall be noticed separately from any proposed rule or rules that are not subject to this paragraph.

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

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

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

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

(1) 'Cost-benefit analysis' shall include the following:

(A) An identification and estimate of the number of small businesses subject to the proposed rule;

(B) The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

(C) A statement of the probable effect on impacted small businesses;

(D) A description of less intrusive or less costly alternative methods of achieving the purpose of the proposed rule; and

(E) An examination of any appropriate scientific research concerning the risk or condition that the rule or amendment is designed to abate or control.

(2) 'Small business' means a business that is independently owned and operated and employs 50 employees or less or has gross annual sales of less than \$4 million.

(3) 'Substantive rules' or 'substantive amendments' mean those rules or amendments that affect the health, safety, or welfare of the public but shall not include rules or amendments that merely restate statutes or that provide internal procedures for the administration of the agency.

(b)(1) Prior to the adoption, amendment, or repeal of any rule, other than interpretive rules or general statements of policy, the agency shall give at least 30 days' notice of its intended action.

(2) Such notice shall include:

(A) An exact copy of the proposed rule;

(B) The cost-benefit analysis of the rule if such analysis is required under subsection (d) of this Code section;

(C) A synopsis of the proposed rule which contains a statement of the purpose and the main features of the proposed rule and, in the case of an amendatory rule, the synopsis shall indicate the differences between the existing rule and the proposed rule;

(D) The exact date on which the agency shall consider the adoption of the rule and shall include the time and place in order that interested persons may present their views thereon; and

(E) A citation of the authority pursuant to which the rule is proposed for adoption and, if the proposal is an amendment or repeal of an existing rule, the existing rule shall be clearly identified.

(3) The notice shall be mailed to all persons and organizations that have requested in writing that they be placed upon a mailing list that shall be maintained by the agency for advance notice of its rule-making proceedings and that have tendered the actual cost of such mailing as from time to time estimated by the agency.

(4) When the notice is mailed, a copy of the notice and synopsis, including the cost-benefit analysis, if required, shall be posted on the Internet and made available by the agency for electronic access and downloading at no cost to any citizen seeking electronic access to such information.

(5) The agency shall afford to all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. The agency shall consider fully all written and oral submissions concerning the proposed rule. In the case of substantive rules, opportunity for oral hearing must be granted if requested by 25 persons who will be affected by the proposed rule, by a governmental subdivision, by a standing committee of the General Assembly to which the proposed rule is referred, or by an association having not less than 25 members. 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

245 a concise statement of the principal reasons for and against its adoption and incorporate
246 therein its reason for overruling the consideration urged against its adoption.

247 (6) If an agency proposes to adopt a new rule which imposed a new administrative
248 burden on businesses, two or more existing rules of the agency shall be amended or
249 repealed to offset the cost of such new administrative burden on such businesses.

250 (c)(1) The agency shall transmit the notice provided for in subsection (b) of this Code
251 section to the legislative counsel. The notice shall be transmitted at least 30 days prior
252 to the date of the agency's intended action. Within three days after receipt of the notice,
253 if possible, the legislative counsel shall furnish the presiding officers of each house with
254 a copy of the notice and the presiding officers shall assign the notice for review to the
255 chairperson of the appropriate standing committee in each house and any member thereof
256 who makes a standing written request. In the event a presiding officer is unavailable for
257 the purpose of making the assignment within the time limitations, the legislative counsel
258 shall assign the notice to the chairperson of the appropriate standing committee. The
259 legislative counsel shall also transmit within the time limitations provided in this
260 subsection a notice of the assignment to the chairperson of the appropriate standing
261 committee. Each standing committee of the Senate and the House of Representatives to
262 which a proposed rule is assigned pursuant to this subsection and each member of such
263 standing committee are granted all rights provided for interested persons and
264 governmental subdivisions in paragraph (5) of subsection (b) of this Code section.

265 (2) In the event that a standing committee to which a notice is assigned as provided in
266 paragraph (1) of this subsection files an objection to a proposed rule prior to its adoption,
267 it shall be the duty of the chairperson of such standing committee to conduct a meeting
268 of the committee within 20 days of the date such objection is filed for the purpose of
269 receiving the comments of the public and the agency concerning the legality of, the
270 necessity for, the impact of, and the appropriateness of such proposed rule. It shall be the
271 duty of the agency head or a representative thereof to attend such standing committee
272 meeting and respond to questions concerning such proposed rule. All comments and
273 testimony given at such meeting and any recommendations of the committee shall be
274 reduced to writing and a copy thereof shall be furnished to the agency and made a part
275 of the record in the proceeding for the adoption of such rule. If the committee that filed
276 the objection is then satisfied that the proposed rule is appropriate or needs some
277 alteration to make it appropriate, the committee may thereupon withdraw or modify the
278 objection, in writing, and shall file a copy of such withdrawal or modification of the
279 objection with the agency. If the objection is not withdrawn and the agency adopts the
280 proposed rule over the objection, the rule may be considered by the branch of the General
281 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 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 one 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 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 of the votes of either branch, the resolution shall be submitted to the Governor for his or her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the event of his or her approval, the rule shall be void on the day after the date of his or her approval.

(3) In the event that a proposed rule assigned to a standing committee pursuant to paragraph (1) of this subsection has a projected economic impact of \$1 million or more on small businesses, as determined by the cost-benefit analysis, it shall be the duty of the chairperson of such standing committee to conduct a meeting of the committee within 20 days of the date such rule is assigned to the committee for the purpose of receiving the comments of the public and the agency concerning the legality of, the necessity for, the impact of, and the appropriateness of such proposed rule. It shall be the duty of the agency head or a representative thereof to attend such standing committee meeting and respond to questions concerning such proposed rule. All comments and testimony given at such meeting and any recommendations of the committee shall be reduced to writing and a copy thereof shall be furnished to the agency and made a part of the record in the proceeding for the adoption of such rule.

(d)(1) Prior to giving the notice required by subsection (b) of this Code section, the agency shall complete or compile a cost-benefit analysis of any proposed rule that may have an adverse impact on small businesses. Such cost-benefit analysis shall be a public record and shall be made available for public inspection and copying in the same manner as other public records of the agency.

(2) In the promulgation and adoption of any rule, agencies shall seek alternatives that will legally and feasibly meet the stated objectives of the statutes and that will be less expensive to individuals and businesses, will produce more flexibility in compliance and enforcement, and will provide better notice to and understanding by the affected

individuals and businesses of the reasons for and manner of enforcement of the rule or amendment. Agencies shall choose alternatives that do not impose excessive regulatory costs on any regulated person or entity, which costs could be reduced by less expensive alternatives that fully accomplish the stated objectives of the statutes which are the basis of any proposed rule. Agencies shall consider alternatives such as the following:

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

(B) Clarify, consolidate, or simplify the compliance and reporting requirements 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.

(3) During the formulation or drafting of any proposed substantive rule or substantive amendment, agencies shall ensure that small businesses have been given the opportunity to participate in the rule-making process for the rule through the reasonable use of techniques such as:

(A) Publishing a general notice of proposed rule making in publications likely to be obtained by small businesses;

(B) Directly notifying interested small businesses;

(C) Holding open conferences or public hearings concerning the rule for small businesses, including soliciting and receiving comments over computer networks;

(D) Appointing an advisory committee composed of representatives of people, businesses, and interests that might be affected by the proposed rule; and

(E) Consulting with a representative sampling of individuals and representatives of businesses and small businesses that might be affected by the proposed rule.

(e)(1)(A) If any agency finds that an imminent peril to the public health, safety, or welfare, including, but not limited to, summary processes authorized by law without notice, such as quarantines, contraband seizures, and the like, requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule.

(B) Any such rule adopted relative to a public health emergency shall be submitted as promptly as reasonably practicable to the House of Representatives and Senate Committees on Judiciary. The rule may be effective for a period of not longer than 120 days but the adoption of an identical rule under this Code section is not precluded; provided, however, that such a rule adopted pursuant to discharge of responsibility under an executive order declaring a state of emergency or disaster exists as a result of a public health emergency, as defined in Code Section 38-3-3, shall be effective for the

duration of the emergency or disaster and for a period of not more than 120 days thereafter.

(2)(A) Subsections (a) through (d) of this Code section shall not apply to environmental protection programs delegated by the federal government to the Environmental Protection Division of the Department of Natural Resources, but paragraph (1) of this subsection shall apply to the Environmental Protection Division of the Department of Natural Resources. Notwithstanding such provision, federally mandated rules shall be subject to the federal Regulatory Flexibility Act as amended by the federal Small Business Regulatory and Enforcement Fairness Act of 1996. Any federally mandated rules that do not comply with these Acts shall be subject to subsection (d) of this Code section. However, subsections (a) through (d) of this Code section shall apply to environmental protection programs that are not federally delegated.

(B) The provisions of subsection (c) of this Code section shall apply to any rule of the Department of Community Health that is promulgated pursuant to Code Section 31-2-7 or by the Department of Public Health pursuant to Code Section 31-45-10, except that the presiding officer of the Senate is directed to assign the notice of such a rule to the chairperson of the Senate Science and Technology Committee and the presiding officer of the House of Representatives is directed to assign the notice of such a rule to the chairperson of the House Committee on Industry and Labor. As used in this subparagraph, the term 'rule' shall have the same meaning as provided in paragraph (6) of Code Section 50-13-2 and shall include interpretive rules and general statements of policy, notwithstanding any provision of subsection (a) of this Code section to the contrary.

(f)(1) No rule adopted after July 1, 2017, shall be valid unless adopted in exact compliance with subsections (b) and (c) of this Code section and in substantial compliance with the remainder of this Code section.

(2) A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this Code section must be commenced within two years from the effective date of the rule.

(3) For any rule subject to this Code section, a small business that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this Code section."

SECTION 4.

Said chapter is further amended by adding a new Code section to read as follows:

"50-13-4.2.

(a) At least once in each four-year period, beginning with the four-year period commencing on January 1, 2018, each agency shall review all of its rules to determine whether any existing rule is no longer necessary, is obsolete, or seeks to accomplish a result that could be accomplished in a more efficient, less burdensome, or less costly manner. After conducting such review, each agency shall prepare a written report summarizing its findings, its supporting reasons, and any proposed course of action. For each rule, the report shall include a concise statement of:

(1) The rule's effectiveness in achieving its objectives, including a summary of any available data supporting the conclusions reached;

(2) Criticisms of the rule received during the four-year period immediately preceding the date of the report, including a summary of any petitions or requests for waiver of or exceptions to the rule tendered to the agency or granted by the agency; and

(3) Alternative solutions to the criticisms and the reasons they were rejected or the changes made in the rule in response to those criticisms and the reasons for the changes.

(b) A copy of the report shall be sent to the Governor, the Secretary of State, the President of the Senate, the Secretary of the Senate, the Speaker of the House of Representatives, the Clerk of the House of Representatives, and legislative counsel. The agency, the Secretary of State, the Secretary of the Senate, and the Clerk of the House of Representatives shall make copies of the report available for public inspection and copying.

(c) It shall be the duty of the President of the Senate and the Speaker of the House of Representatives to assign each such report to one or more standing committees of the Senate and House of Representatives for review and comment. The chairpersons of the committees to which any such report is assigned shall call a joint meeting or meetings of the committees to review such report and make suggestions to the agency and to the General Assembly concerning any changes in the rules or the statutes that the committees feel are appropriate."

SECTION 5.

Said chapter is further amended by revising paragraph (2) of subsection (c) of Code Section 50-13-6, relating to rules not effective until 20 days after filed with Secretary of State, maintenance of record of the rules, exceptions, and rules governing manner and form of filing, as follows:

"(2) Any emergency rule adopted pursuant to subsection ~~(b)~~ (e) of Code Section 50-13-4 may become effective immediately upon adoption or within a period of less than 20 days. The emergency rule, with a copy of the finding as required by subsection ~~(b)~~ (e) of Code Section 50-13-4, shall be filed with the office of the Secretary of State within four working days after its adoption."

SECTION 6.

Said chapter is further amended by revising paragraph (4) of subsection (a) of Code Section 50-13-13, relating to opportunity for hearings in contested cases, notice, counsel, subpoenas, record, enforcement powers, and revenue cases, as follows:

"(4) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. It shall be the duty of every agency to provide reasonable assistance and education concerning the requirements of the laws of this state and the rules of the agency to any person or entity in order to achieve compliance with such laws and rules before commencing any contested case. A contested case shall be undertaken only after a reasonable attempt to achieve compliance with the laws and rules has failed to achieve such compliance;"

SECTION 7.

Code Section 27-1-5 of the Official Code of Georgia Annotated, relating to applicability of the "Georgia Administrative Procedure Act" to rules and regulations promulgated by the Board of Natural Resources, affirmation of decision by operation of law, and appellate review, is amended by revising subsection (a) as follows:

"(a) Except as otherwise specifically provided, all rules and regulations promulgated by the board under this title shall be promulgated pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' For the purposes of this title, rule making under subsection ~~(b)~~ (e) of Code Section 50-13-4 in response to an imminent peril to the public health, safety, or welfare shall include rule making to protect wildlife, the public, and the natural resources of this state in the event of fire, flood, disease, pollution, or other emergency situations."

SECTION 8.

Code Section 28-5-50 of the Official Code of Georgia Annotated, relating to filing of notes for regulations, rules, or orders and requests by local political subdivisions for copies, is amended by revising the Code section as follows:

"28-5-50.

Except as otherwise provided in this Code section, no regulation, rule, order, or administrative law which would have a fiscal impact which in the aggregate exceeds \$5 million on local political subdivisions in this state shall be valid unless 30 days prior to its adoption by a board, commission, agency, department, officer, or other authority of the government of this state, except the General Assembly, the courts, and the Governor, such board, commission, agency, department, officer, or other authority shall file a fiscal note with the members of the General Assembly. Any local political subdivisions that will be

affected by the proposed regulation, rule, policy, order, or administrative law, upon request, shall immediately be furnished with a copy of the fiscal note by the board, commission, agency, department, officer, or other authority. This Code section shall not apply to an emergency regulation, rule, order, or administrative law as described by subsection ~~(b)~~ (e) of Code Section 50-13-4, to any rule or regulation adopted or order issued pursuant to legislation exempted from Code Section 28-5-49, or to any other order issued to abate or prevent violations of specific statutory provisions enacted by the General Assembly."

SECTION 9.

Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures for rule making by the Department of Community Health, is amended by revising the Code section as follows:

"(a) Rules of the department shall be adopted, promulgated, and implemented as provided in this Code section and in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the department shall not be required to comply with subsections (c) through ~~(g)~~ (e) of Code Section 50-13-4.

(b) The department shall transmit three copies of the notice provided for in ~~paragraph (1)~~ subsection (a) ~~(b)~~ of Code Section 50-13-4 to the legislative counsel. The copies shall be transmitted at least 30 days prior to that department's intended action. Within five days after receipt of the copies, if possible, the legislative counsel shall furnish the presiding officer of each house with a copy of the notice and mail a copy of the notice to each member of the Health and Human Services Committee of the Senate and each member of the Health and Human Services Committee of the House of Representatives. Each such rule and any part thereof shall be subject to the making of an objection by either such committee within 30 days of transmission of the rule to the members of such committee. Any rule or part thereof to which no objection is made by both such committees may become adopted by the department at the end of such 30 day period. The department may not adopt any such rule or part thereof which has been changed since having been submitted to those committees unless:

(1) That change is to correct only typographical errors;

(2) That change is approved in writing by both committees and that approval expressly exempts that change from being subject to the public notice and hearing requirements of subsection ~~(a)~~ (b) of Code Section 50-13-4;

(3) That change is approved in writing by both committees and is again subject to the public notice and hearing requirements of subsection ~~(a)~~ (b) of Code Section 50-13-4; or

(4) That change is again subject to the public notice and hearing requirements of subsection ~~(a)~~ (b) of Code Section 50-13-4 and the change is submitted and again subject to committee objection as provided in this subsection.

Nothing in this subsection shall prohibit the department from adopting any rule or part thereof without adopting all of the rules submitted to the committees if the rule or part so adopted has not been changed since having been submitted to the committees and objection thereto was not made by both committees.

(c) Any rule or part thereof to which an objection is made by both committees within the 30 day objection period under subsection (b) of this Code section shall not be adopted by the department and shall be invalid if so adopted. A rule or part thereof thus prohibited from being adopted shall be deemed to have been withdrawn by the department unless the department, within the first 15 days of the next regular session of the General Assembly, transmits written notification to each member of the objecting committees that the department does not intend to withdraw that rule or part thereof but intends to adopt the specified rule or part effective the day following adjournment sine die of that regular session. A resolution objecting to such intended adoption may be introduced in either branch of the General Assembly after the fifteenth day but before the thirtieth day of the session in which occurs the notification of intent not to withdraw a rule or part thereof. In the event the resolution is adopted by the branch of the General Assembly in which the resolution was introduced, 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 to have that branch, within five days after receipt of the resolution, consider the resolution for purposes of objecting to the intended adoption of the rule or part thereof. Upon such resolution being adopted by two-thirds of the vote of each branch of the General Assembly, the rule or part thereof objected to in that resolution shall be disapproved and not adopted by the department. If the resolution is adopted by a majority but by less than two-thirds of the vote of each such branch, the resolution shall be submitted to the Governor for his or her approval or veto. In the event of a veto, or if no resolution is introduced objecting to the rule, or if the resolution introduced is not approved by at least a majority of the vote of each such branch, the rule shall automatically become adopted the day following adjournment sine die of that regular session. In the event of the Governor's approval of the resolution, the rule shall be disapproved and not adopted by the department.

(d) Any rule or part thereof which is objected to by only one committee under subsection (b) of this Code section and which is adopted by the department 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

the department in adopting a proposed rule over such objection so to notify the chairpersons of the Health and Human Services Committee of the Senate and the Health and Human Services Committee of the House 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, consider the resolution for the purpose of overriding the rule. In the event the resolution is adopted by two-thirds 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 a majority but by less than two-thirds of the votes of either branch, the resolution shall be submitted to the Governor for his or her approval or veto. In the event of a veto, the rule shall remain in effect. In the event of the Governor's approval, the rule shall be void on the day after the date of approval.

(e) Except for emergency rules, no rule or part thereof adopted by the department after April 3, 1985, shall be valid unless adopted in compliance with subsections (b), (c), and (d) of this Code section and subsection ~~(a)~~ (b) of Code Section 50-13-4.

(f) Emergency rules shall not be subject to the requirements of subsection (b), (c), or (d) of this Code section but shall be subject to the requirements of subsection ~~(b)~~ (e) of Code Section 50-13-4. Upon the first expiration of any department emergency rules, where those emergency rules are intended to cover matters which had been dealt with by the department's nonemergency rules but such nonemergency rules have been objected to by both legislative committees under this Code section, the emergency rules concerning those matters may not again be adopted except for one 120 day period. No emergency rule or part thereof which is adopted by the department shall be valid unless adopted in compliance with this subsection.

(g) Any proceeding to contest any rule on the ground of noncompliance with this Code section must be commenced within two years from the effective date of the rule.

(h) For purposes of this Code section, 'rules' shall mean rules and regulations.

(i) The state health plan or the rules establishing considerations, standards, or similar criteria for the grant or denial of a certificate of need pursuant to Code Section 31-6-42 shall not apply to any application for a certificate of need as to which, prior to the effective date of such plan or rules, respectively, the evidence has been closed following a full evidentiary hearing before a hearing officer.

(j) This Code section shall apply only to rules adopted pursuant to this chapter."

SECTION 10.

Code Section 31-12-2.1 of the Official Code of Georgia Annotated, relating to investigation of potential bioterrorism activity and regulations and planning for public health emergencies, is amended by revising subsection (b) as follows:

"(b) The department shall promulgate rules and regulations appropriate for management of any public health emergency declared pursuant to the provisions of Code Section 38-3-51, with particular regard to coordination of the public health emergency response of the state pursuant to subsection (i) of said Code section. Such rules and regulations shall be applicable to the activities of all entities created pursuant to Chapter 3 of this title in such circumstances, notwithstanding any other provisions of law. In developing such rules and regulations, the department shall consult and coordinate as appropriate with the Georgia Emergency Management and Homeland Security Agency, the Federal Emergency Management Agency, the Georgia Department of Public Safety, the Georgia Department of Agriculture, and the federal Centers for Disease Control and Prevention. The department is authorized, in the course of management of a declared public health emergency, to adopt and implement emergency rules and regulations pursuant to the provisions of subsection ~~(b)~~ (e) of Code Section 50-13-4. Such rules and regulations shall be adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' but shall be automatically referred by the Office of Legislative Counsel to the House of Representatives and Senate Committees on Judiciary."

SECTION 11.

Code Section 33-29A-8 of the Official Code of Georgia Annotated, relating to rules and regulations and compensation to licensed insurance agents, is amended by revising subsection (a) as follows:

"(a) The Commissioner shall adopt rules and regulations for the implementation of this chapter. Notwithstanding any provision of Chapter 2 of this title or any other law to the contrary, such rules and regulations shall be adopted in exact compliance with the procedures specified in Article 1 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In addition to any other materials submitted under subsection ~~(a)~~ (b) of Code Section 50-13-4, there shall be so submitted the full text of the Georgia Health Insurance Assignment System, the Georgia Health Benefits Assignment System, the standard health insurance policies provided for in Code Section 33-29A-4, and the standard health benefit plans provided for in Code Section 33-29A-5."

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SECTION 12.

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Code Section 50-13A-20 of the Official Code of Georgia Annotated, relating to applicability

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of tax tribunal provisions, is amended by revising paragraph (2) of subsection (b) as follows:

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"(2) Code Section 50-13-4, except for ~~paragraphs (3) and (4) of subsection (a) and~~

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~~subsections (b), (g), (h), and (i)~~ paragraph (2) of subsection (d) and subsection (e);".

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SECTION 13.

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