

House Bill 260

By: Representatives Schofield of the 63rd, Davis of the 87th, Mitchell of the 88th, Gilliard of the 162nd, and Thomas of the 65th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and
2 natural resources, so as to require all state entities to consider and report on environmental
3 justice concerns prior to taking certain state actions; to create the Environmental Justice
4 Commission; to provide a short title; to provide for definitions; to provide for membership;
5 to provide for the duties of the commission; to provide that as a prerequisite for obtaining
6 certain permits in neighborhoods consisting of persons of color or from low-income families
7 applicants shall take certain actions to mitigate health hazards; to provide that governmental
8 agencies shall consider the disproportionate effect of environmental hazards on people of
9 color or people from low-income families in implementing certain environmental policies;
10 to provide that no person in this state shall be excluded from any state funded program or
11 activity because of race, color, or national origin; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
16 resources, is amended by adding a new chapter to read as follows:

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17 "CHAPTER 18

18 12-18-1.

19 This chapter shall be known and may be cited as the 'Georgia Environmental Justice Act
20 of 2023.'

21 12-18-2.

22 As used in this chapter, the term:

23 (1) 'Agency' means any department, board, bureau, commission, authority, or other
24 agency of this state.

25 (2) 'Commission' means the Environmental Justice Commission created by this chapter.

26 (3) 'Director' means the director of the Environmental Protection Division of the
27 Department of Natural Resources.

28 (4) 'Division' means the Environmental Protection Division of the Department of Natural
29 Resources.

30 (5) 'Targeted facility' means a business or facility so designated by the commission
31 pursuant to Code Section 12-18-5.

32 12-18-3.

33 (a) Prior to taking any action which may negatively impact the health or environment of
34 any community in this state, an agency shall prepare an environmental justice report that
35 shall include, but shall not be limited to, a discussion of:

36 (1) The impact of the proposed action on said community;

37 (2) Alternatives to any proposed action, including no action;

38 (3) Any short-term and long-term effects of the proposed action, as well as any potential
39 adverse and beneficial economic effects on the community;

40 (4) Mitigation measures proposed to avoid or minimize the adverse impact of any
41 proposed action; and

42 (5) Cumulative impacts on the community caused by unrelated pollution sources or
43 facilities or adjacent effects, such as increased truck or commercial traffic, which may
44 have disproportionately discriminatory impacts on such community.

45 (b) At least 45 days prior to determining a course of action based on the report as provided
46 for in subsection (a) of this Code section, the agency shall present the report to the
47 commission for review. Such agency shall make such environmental justice report
48 available to the public and to counties, municipalities, institutions, and individuals, upon
49 request.

50 12-18-4.

51 (a) There is created the Environmental Justice Commission consisting of 22 members
52 appointed as follows:

53 (1) One member of the House of Representatives appointed by the Speaker of the House
54 of Representatives;

55 (2) One member of the Senate appointed by the President of the Senate;

56 (3) Two employees of the Department of Natural Resources, including the director or his
57 or her designee and a member appointed by the commissioner of natural resources; and

58 (4) Eighteen members appointed by the Governor who shall consider the advice of the
59 Speaker of the House of Representatives, the President of the Senate, and the chairperson
60 of the Georgia Legislative Black Caucus when making appointments as follows: two
61 members representing the civil rights community; two members representing the
62 environmental community, including grassroots community organizations; three members
63 representing the business community, including one privately held and one publicly held
64 major facility regulated by the division; one member representing municipal
65 governments; one member representing county governments; two members representing

66 the colleges and universities in this state, one of whom shall represent a historically
67 African-American college or university; one member who is an environmental risk
68 professional; one member representing African Americans; one member representing
69 Native Americans; one member representing Asian Americans; and three members
70 representing low-income communities. At least two of the Governor's appointees from
71 two different categories shall be from communities having a population of less
72 than 50,000 according to the most recent United States decennial census.

73 (b) The members of the commission shall be appointed not later than June 30, 2023, and
74 shall serve until October 1, 2024, on which date the commission shall be disbanded.

75 (c) The members shall serve without compensation; provided, however, that the members
76 shall receive the same per diem allowance and reimbursement of expenses as allowed for
77 members of the General Assembly.

78 12-18-5.

79 (a) The commission shall designate target facilities which shall include a representative
80 sampling of businesses or facilities which require a permit issued by the division or the
81 federal Environmental Protection Agency, are subject to inspection or review by the
82 division or the federal Environmental Protection Agency, or are required to register
83 pursuant to Chapter 8 of this title or any federal environmental legislation; businesses or
84 facilities subject to reporting obligations pursuant to the federal Emergency Planning and
85 Community Right-To-Know Act; and businesses or facilities on the federal Superfund
86 National Priorities List. Such designation shall be given to businesses and facilities located
87 in a representative socioeconomic sampling of neighborhoods throughout the state.

88 (b) The commission shall conduct a scientific analysis, including case studies, and prepare
89 a report to include, at a minimum, the following:

- 90 (1) A list of the major targeted facilities located in this state, together with historical and
91 current demographic information, including health statistics of the population
92 surrounding each site;
- 93 (2) A review of past enforcement actions taken by the division or the federal
94 Environmental Protection Agency for violations affecting human health;
- 95 (3) A review of factors, including economic factors, that may have caused targeted
96 facilities which pose a threat to human health to be concentrated in low-income
97 neighborhoods and neighborhoods populated largely by African Americans;
- 98 (4) A review of statutes, rules, and policies of state and local governments and a review
99 of the role those entities played in making or influencing siting and land use decisions
100 which may pose a threat to human health in the vicinity of the targeted facilities;
- 101 (5) A review of data and methodologies by which state and local governments might
102 become more aware of situations in which neighborhoods are at particularly high risk
103 from threats to human health;
- 104 (6) A review of enforcement statutes and rules related to targeted facilities in order to
105 assess whether actual enforcement practices have resulted in uneven outcomes and to
106 determine if alternative or stronger enforcement measures would result in more equitable
107 treatment for people from low-income families;
- 108 (7) A review of the efforts by state and local agencies in ensuring equitable
109 representation of people of color and people from low-income families in the work force
110 and in helping youth from those neighborhoods learn about career opportunities in the
111 environmental field;
- 112 (8) A review of methods used by the division in communicating with people of color and
113 people from low-income families and recommendations of how the division can be more
114 accessible to such people;

115 (9) A review of approaches to ensure consideration of environmental equality and justice
116 issues when implementing policies, procedures, and legislation within agencies and the
117 institutions;

118 (10) A review to determine the need for a requirement that applicants for permits for the
119 construction, major modification, or operation of a facility required by Chapter 8 or 9 of
120 this title submit a study of site demographics containing an analysis of population by
121 race, ethnicity, age, and the percentage of persons from low-income families in the
122 neighborhood and a requirement that the permitting agency consider such data in
123 determining whether to issue a permit; and

124 (11) A review to determine the advisability of creating a permanent board or other entity
125 to consider environmental justice issues.

126 12-18-6.

127 (a) The commission shall have the authority to intervene in proceedings before state
128 agencies relating to environmental matters affecting people of color and people from
129 low-income families. The commission shall not take any action which would impede or
130 obstruct an investigation by the division, any law enforcement agency, or any judicial
131 authority.

132 (b) The commission shall have access to all nonconfidential or unprotected records, files,
133 and reports pertaining to its mission and in the possession of the Department of Natural
134 Resources; provided, however, that such access shall not be granted if prohibited by federal
135 law.

136 12-18-7.

137 (a) The commission shall meet initially to make study assignments not later than
138 August 30, 2023, and shall issue a preliminary report not later than April 30, 2024.

139 (b) Following the issuance of the preliminary report referred to in subsection (a) of this
140 Code section, the commission shall hold at least five public hearings throughout the state.
141 The commission shall encourage and may accept private contributions to assist low-income
142 members of the commission to travel to such meetings.

143 (c) The commission shall prepare such model legislation as it deems appropriate for
144 consideration by the General Assembly during the regular 2024 session.

145 (d) The report referred to in subsection (b) of Code Section 12-18-4 shall be completed
146 and submitted to the Governor, the Speaker of the House of Representatives, and the
147 President of the Senate not later than September 30, 2027.

148 12-18-8.

149 Prior to the approval of any permit required by Chapter 8 or Chapter 9 of this title for the
150 construction, major modification, or operation of a facility located in a ZIP code area
151 having a majority population consisting of people of color or people from low-income
152 families, the applicant shall commit to implementing unit of production pollution
153 prevention goal environmental assessment baseline studies. Proposed plans for pollution
154 prevention and community baseline health studies shall be submitted to the permitting
155 authority and shall be approved by the applicant's chief executive officer. Pollution
156 prevention plans should include a commitment by the applicant to report its inventory of
157 chemical use and make such information available to the public.

158 12-18-9.

159 When implementing the Environmental Policy Act pursuant to Chapter 16 of this title,
160 governmental agencies shall consider the disproportionate effects of environmental hazards
161 upon neighborhoods whose residents are people of color or people from low-income
162 families. Governmental agencies shall consider such disproportionate effects when

163 determining whether a government action significantly adversely affects the quality of the
164 environment and when preparing environmental effects reports.

165 12-18-10.

166 No person in this state shall, on the basis of race, color, or national origin be excluded from
167 participation in, be denied the benefits of, or be subjected to discrimination under any
168 program or activity receiving state financial assistance. No group of people shall be forced
169 to shoulder a disproportionate share of negative environmental hazards due to lack of
170 political or economic strength."

171 **SECTION 2.**

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