

House Bill 339

By: Representatives Drenner of the 85th, Hugley of the 136th, Mitchell of the 88th, Kausche of the 50th, and Schofield of the 60th

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 create the Environmental Justice Commission; to provide a short
3 title; to define certain terms; to provide for membership; to provide for the duties of the
4 commission; to provide that as a prerequisite for obtaining certain permits in neighborhoods
5 consisting of persons of color or from low-income families applicants shall take certain
6 actions to mitigate health hazards; to provide that governmental agencies shall consider the
7 disproportionate effect of environmental hazards on people of color or people from
8 low-income families in implementing certain environmental policies; to provide that no
9 person in Georgia shall be excluded from any state funded program or activity because of
10 race, color, or national origin; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

H. B. 339

15 "CHAPTER 1816 12-18-1.17 This chapter shall be known and may be cited as the 'Georgia Environmental Justice Act
18 of 2021.'19 12-18-2.20 As used in this chapter, the term:21 (1) 'Agency' means any department, board, bureau, commission, authority, or other
22 agency of this state.23 (2) 'Commission' means the Environmental Justice Commission created by this chapter.24 (3) 'Director' means the director of the Environmental Protection Division of the
25 Department of Natural Resources.26 (4) 'Division' means the Environmental Protection Division of the Department of Natural
27 Resources.28 (5) 'Targeted facility' means a business or facility so designated by the commission
29 pursuant to Code Section 12-18-4.30 12-18-3.31 (a) There is created the Environmental Justice Commission consisting of 22 members
32 appointed as follows:33 (1) One member of the House of Representatives appointed by the Speaker of the House
34 of Representatives;35 (2) One member of the Senate appointed by the President of the Senate;36 (3) Two employees of the Department of Natural Resources, including the director or his
37 or her designee and a member appointed by the commissioner of natural resources; and

38 (4) Eighteen members appointed by the Governor who shall consider the advice of the
39 Speaker of the House of Representatives, the President of the Senate, and the chairperson
40 of the Georgia Legislative Black Caucus when making appointments as follows: two
41 members representing the civil rights community; two members representing the
42 environmental community, including grassroots community organizations; three members
43 representing the business community, including one privately held and one publicly held
44 major facility regulated by the division; one member representing municipal
45 governments; one member representing county governments; two members representing
46 the colleges and universities in this state, one of whom shall represent a historically
47 African-American college or university; one member who is an environmental risk
48 professional; one member representing African-Americans; one member representing
49 Native-Americans; one member representing Asian-Americans; and three members
50 representing low-income communities. At least two of the Governor's appointees from
51 two different categories shall be from communities having a population of less than
52 50,000 according to the most recent United States decennial census.

53 (b) The members of the commission shall be appointed not later than December 31, 2021,
54 and shall serve until December 31, 2022, on which date the commission shall be disbanded.

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

58 12-18-4.

59 (a) The commission shall designate target facilities which shall include a representative
60 sampling of businesses or facilities which require a permit issued by the division or the
61 federal Environmental Protection Agency, are subject to inspection or review by the
62 division or the federal Environmental Protection Agency, or are required to register
63 pursuant to Chapter 8 of this title or any federal environmental legislation; businesses or

64 facilities subject to reporting obligations pursuant to the federal Emergency Planning and
65 Community Right-To-Know Act; and businesses or facilities on the federal Superfund
66 National Priorities List. Such designation shall be given to businesses and facilities located
67 in a representative sampling of socio-economic neighborhoods throughout the state.

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

70 (1) A list of the major targeted facilities located in Georgia, together with historical and
71 current demographic information, including health statistics of the population
72 surrounding each site;

73 (2) A review of past enforcement actions taken by the division or the federal
74 Environmental Protection Agency for violations affecting human health;

75 (3) A review of factors, including economic factors, that may have caused targeted
76 facilities which pose a threat to human health to be concentrated in low-income
77 neighborhoods and neighborhoods populated largely by African-Americans;

78 (4) A review of statutes, rules, and policies of state and local governments and a review
79 of the role those entities played in making or influencing siting and land use decisions
80 which may pose a threat to human health in the vicinity of the targeted facilities;

81 (5) A review of data and methodologies by which state and local governments might
82 become more aware of situations in which neighborhoods are at particularly high risk
83 from threats to human health;

84 (6) A review of enforcement statutes and rules related to targeted facilities in order to
85 assess whether actual enforcement practices have resulted in uneven outcomes and to
86 determine if alternative or stronger enforcement measures would result in more equitable
87 treatment for people from low-income families;

88 (7) A review of the efforts by state and local agencies in ensuring equitable
89 representation of people of color and people from low-income families in the work force

90 and in helping youth from those neighborhoods learn about career opportunities in the
91 environmental field;

92 (8) A review of methods used by the division in communicating with people of color and
93 people from low-income families and recommendations of how the division can be more
94 accessible to such people;

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

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

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

106 12-18-5.

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

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

116 12-18-6.

117 (a) The commission shall meet initially to make study assignments not later than
118 January 31, 2022, and shall issue a preliminary report not later than October 30, 2022.

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

123 (c) The commission shall prepare such model legislation as it deems appropriate for
124 consideration by the General Assembly during the regular 2023 session.

125 (d) The report referred to in subsection (b) of Code Section 12-18-4 shall be completed
126 and submitted to the Governor, the Speaker of the House of Representative, and the
127 President of the Senate not later than November 30, 2022.

128 12-18-7.

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

138 12-18-8.

139 When implementing the Environmental Policy Act pursuant to Chapter 16 of this title,
140 governmental agencies shall consider the disproportionate effects of environmental hazards

141 upon neighborhoods whose residents are people of color or people from low-income
142 families. Governmental agencies shall consider such disproportionate effects when
143 determining whether a government action significantly adversely affects the quality of the
144 environment and when preparing environmental effects reports.

145 12-18-9.

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

151 **SECTION 2.**

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