

House Bill 495

By: Representatives Drenner of the 85th, Carter of the 93rd, Evans of the 89th, Davis of the 87th, 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 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 provide for an effective date; to repeal conflicting laws; and
11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

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

H. B. 495

16 "CHAPTER 1817 12-18-1.18 This chapter shall be known and may be cited as the 'Georgia Environmental Justice Act
19 of 2023.'20 12-18-2.21 As used in this chapter, the term:22 (1) 'Agency' means any department, board, bureau, commission, authority, or other
23 agency of this state.24 (2) 'Commission' means the Environmental Justice Commission created by this chapter.25 (3) 'Director' means the director of the Environmental Protection Division of the
26 Department of Natural Resources.27 (4) 'Division' means the Environmental Protection Division of the Department of Natural
28 Resources.29 (5) 'Targeted facility' means a business or facility so designated by the commission
30 pursuant to Code Section 12-18-4.31 12-18-3.32 (a) There is created the Environmental Justice Commission consisting of 22 members
33 appointed as follows:34 (1) One member of the House of Representatives appointed by the Speaker of the House
35 of Representatives;36 (2) One member of the Senate appointed by the President of the Senate;37 (3) Two employees of the Department of Natural Resources, including the director or his
38 or her designee and a member appointed by the commissioner of natural resources; and

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

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

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

59 12-18-4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

107 12-18-5.

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

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

117 12-18-6.

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

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

124 (c) The commission shall prepare such model legislation as it deems appropriate for
125 consideration by the General Assembly during the regular 2025 session.

126 (d) The report referred to in subsection (b) of Code Section 12-18-4 shall be completed
127 and submitted to the Governor, the Speaker of the House of Representatives, and the
128 President of the Senate not later than September 30, 2029.

129 12-18-7.

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

139 12-18-8.

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

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

146 12-18-9.

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

152 **SECTION 2.**

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

155 **SECTION 3.**

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