

The Senate Education and Youth Committee offered the following substitute to HB 641:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to establish the Georgia Foundation for Public
3 Education and provide for its membership, duties, powers, and purposes; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
7 secondary education, is amended by adding a new Code section to read as follows:

9 "20-2-14.1

10 (a) There is established the Georgia Foundation for Public Education existing as a public
11 corporation and instrumentality of the state, exclusively limited to the following charitable
12 and public purposes and powers:

13 (1) To solicit and accept contributions of money and in-kind contributions of services
14 and property for the purpose of supporting educational excellence in Georgia;

15 (2) To solicit and accept contributions of money and in-kind contributions of services
16 and property for the purpose of supporting educational excellence at Georgia Academy
17 for the Blind, Georgia School for the Deaf, and Atlanta Area School for the Deaf;

18 (3) To sell and dispose of contributed property and securities in accordance with the
19 prudent person rule;

20 (4) To make and disburse contributions to the department and others for such purposes;

21 (5) To contract and be contracted with for purposes of the foundation; and

22 (6) To seek recognition of tax exempt status by the United States Internal Revenue
23 Service and to seek confirmation concerning the deductibility of contributions.

24 (b) The Georgia Foundation for Public Education shall be attached to the department for
25 administrative purposes. The Attorney General shall be the attorney for the foundation.
26 The State School Superintendent may solicit and accept contributions from the foundation.

1 The department may cooperate and contract with the foundation for their mutual benefit
2 and authorize others to do so. Upon any dissolution of the foundation, its assets shall
3 devolve in trust to the State Board of Education or its successor for use only for the benefit
4 of the department and the schools listed in paragraph (2) of subsection (a) of this Code
5 section.

6 (c) The creation of the foundation and the execution of its corporate purposes shall be in
7 all respects for the benefit of the people of this state and constitute a public and charitable
8 purpose. Further, the foundation performs an essential governmental function in the
9 exercise of the powers conferred upon it by this Code section. Accordingly, the foundation
10 shall not be subject to taxation or assessment in any manner, including without limitation
11 taxation or assessment upon any transaction, income, money, or other property or activity.
12 The exemptions granted by this Code section shall not be extended to any private person
13 or entity.

14 (d)(1) The foundation shall be governed by a board of directors composed of between
15 five and 15 members as determined by the State School Superintendent. Members of the
16 board of directors shall be appointed by either the State School Superintendent or the
17 State Board of Education. For every three board members appointed by the State School
18 Superintendent, the State Board of Education may appoint two board members. At least
19 two members of the board of directors appointed by the State Board of Education shall
20 represent the interests of students who are blind or deaf. The chairperson of the Budget
21 and Finance Committee of the State Board of Education, or such committee's successor,
22 shall be an ex officio member of the foundation board of directors. The foundation board
23 of directors shall draft and adopt governance bylaws, subject to approval by the State
24 School Superintendent.

25 (2) The foundation shall have complete discretion to invest any and all assets as it sees
26 fit in accordance with the prudent person rule, and at no time shall the assets of the
27 foundation be considered assets of the state.

28 (3) The foundation shall not be subject to state purchasing laws, as contained in Article 3
29 of Chapter 5 of Title 50 or in other provisions of this Code, or required to dispose of
30 property in accordance with Article 4 of Chapter 5 of Title 50.

31 (4) The foundation shall be authorized to purchase insurance as provided by Code
32 Section 50-5-16.

33 (5) The foundation shall have the authority to roll over any unused funds into the next
34 fiscal year.

35 (e) The foundation's operations shall not be subject to Article 1 of Chapter 13 of Title 50,
36 the 'Georgia Administrative Procedure Act.'

1 (f) The foundation shall be deemed to be a charitable organization for purposes of
2 voluntary contributions from state employees pursuant to Article 3 of Chapter 20 of
3 Title 45."

4 **SECTION 2.**

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