

House Bill 1199 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Smith of the 70th, Peake of the 137th, Lane of the 158th, Knight of the 126th, Hill of the 180th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated,
2 relating to the Department of Natural Resources in general, so as to change certain provisions
3 relating to the authority of the Department of Natural Resources to arrange for and accept
4 volunteer services and cooperation with other government entities and civic organizations;
5 to authorize the incorporation by the department of one nonprofit corporation that qualifies
6 as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the
7 department in carrying out any of its powers and accomplishing any of its purposes by
8 accepting donations; to provide conditions and restrictions; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to the
13 Department of Natural Resources in general, is amended by revising Code Section 12-2-6,
14 relating to the department's authority to arrange for and accept federal aid and volunteer
15 services and cooperation with other government entities and civic organizations, as follows:
16 "12-2-6.

17 (a) In carrying out its objectives, the department is authorized to arrange for and accept
18 such aid and cooperation from the several United States governmental bureaus and
19 departments and from such other sources as may lend assistance.

20 (b)(1) The commissioner is authorized to accept without regard to the State Personnel
21 Administration, laws, rules, or regulations, the services of individuals without
22 compensation as volunteers for or in aid of environmental protection, coastal resources,
23 historic preservation, interpretive functions, hunter safety and boating safety instruction,
24 hunter safety and boating safety programs, wildlife management, recreation, visitor
25 services, conservation measures and development, public education on conservation, and

26 any other activities in and related to the objectives, powers, duties, and responsibilities
27 of the department.

28 (2) The commissioner is authorized to provide for reimbursement of volunteers for
29 incidental expenses such as transportation, uniforms, lodging, and subsistence. The
30 commissioner is also authorized to provide general liability coverage and fidelity bond
31 coverage for such volunteers while they are rendering service to or on behalf of the
32 department.

33 (3) Except as otherwise provided in this Code section, a volunteer shall not be deemed
34 to be a state employee and shall not be subject to the provisions of law relating to state
35 employment, including, without limitation, those relating to hours of work, rates of
36 compensation, leave, unemployment compensation, and state employee benefits.

37 (4) Volunteers performing work under the terms of this Code section may be authorized
38 by the department to operate state owned vehicles. They may also be treated as
39 employees of the state for the purposes of inclusion in any automobile liability insurance
40 or self-insurance, general liability insurance or self-insurance, or fidelity bond coverage
41 provided by the department for its employees while operating state owned vehicles.

42 (5) No volunteer shall be authorized or allowed to enter privately owned or operated
43 lands, facilities, or properties without the express prior written permission of the owner
44 or operator of such privately owned or operated lands, facilities, or properties; provided,
45 however, such prohibition shall not apply to lands, facilities, or properties leased to the
46 State of Georgia.

47 (c) The department shall have the power and authority to create, establish, and operate a
48 program or programs to facilitate, amplify, or supplement the objectives and functions of
49 the department through the use of volunteer services, including, but not limited to, the
50 recruitment, training, and use of volunteers.

51 (d) The department is directed to cooperate with and coordinate its work with the work of
52 each department of the federal government dealing with the same subject matters dealt with
53 by the Department of Natural Resources. The department is authorized to cooperate with
54 the counties of the state in any surveys to ascertain the natural resources of the counties.
55 The department is also authorized to cooperate with the governing bodies of municipalities
56 and boards of trade and other local civic organizations in examining and locating water
57 supplies and in giving advice concerning and in recommending plans for other municipal
58 improvements and enterprises. Such cooperation is to be conducted upon such terms as the
59 department may direct.

60 (e) The department shall have the authority to participate with public and private groups,
61 organizations, and businesses in joint advertising and promotional projects that promote
62 environmental protection, coastal resource conservation, historic preservation, interpretive

functions, hunter safety and boating safety instruction and programs, outdoor recreation, wildlife management, recreation, visitor services, conservation measures and development, public education on conservation and any other activities in and related to the objectives, powers, duties, and responsibilities of the department and that make efficient use of funds appropriated for advertising and promotions; provided, however, that nothing in this subsection shall be construed so as to authorize the department to grant any donation or gratuity.

(f)(1) The department shall have the power and authority to incorporate one nonprofit corporation that could qualify as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the department in carrying out any of its powers and in accomplishing any of its purposes. Any nonprofit corporation created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and the Secretary of State shall be authorized to accept such filing.

(2) Any nonprofit corporation created pursuant to this subsection shall be subject to the following provisions:

(A) In accordance with the Constitution of Georgia, no governmental functions or regulatory powers shall be conducted by any such nonprofit corporation;

(B) Upon dissolution of any such nonprofit corporation incorporated by the department, any assets shall revert to the department or to any successor to the department or, failing such succession, to the State of Georgia;

(C) No member of the Board of Natural Resources shall be an officer or director of any such nonprofit corporation;

(D) As used in this subparagraph, the term 'direct employee costs' means salary, benefits, and travel expenses. To avoid the appearance of undue influence on regulatory functions by donors, no donations to any such nonprofit corporation from private sources shall be used for direct employee costs of the department;

(E) Any such nonprofit corporation shall be subject to all laws relating to open meetings and the inspection of public records;

(F) The department shall not be liable for the action or omission to act of any such nonprofit corporation;

(G) No debts, bonds, notes, or other obligations incurred by any such nonprofit corporation shall constitute an indebtedness or obligation of the State of Georgia nor shall any act of any such nonprofit corporation constitute or result in the creation of an indebtedness of the state. No holder or holders of any such bonds, notes, or other obligations shall ever have the right to compel any exercise of the taxing power of the state nor to enforce the payment thereof against the state; and

(H) Any nonprofit corporation created pursuant to this Code section shall not acquire or hold a fee simple interest in real property by any method, including but not limited to gift, purchase, condemnation, devise, court order, and exchange.

(3) Any nonprofit corporation created pursuant to this subsection shall make public and provide an annual report showing the identity of all donors and the amount each person or entity donated as well as all expenditures or other disposal of money or property donated. Such report shall be provided to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the House Committee on Natural Resources and Environment, the House Committee on Game, Fish, and Parks, and the Senate Natural Resources and the Environment Committee. Any such nonprofit corporation shall also provide such persons with a copy of all corporate filings with the federal Internal Revenue Service."

SECTION 2.

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