

House Bill 381

By: Representatives Hatchett of the 150th, Coomer of the 14th, Nimmer of the 178th, Smith of the 70th, Burns of the 159th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 12-2-6 of the Official Code of Georgia Annotated, relating to
2 authority of the Department of Natural Resources to arrange for and accept federal aid and
3 cooperation, organize volunteer services, and cooperate with government entities and civic
4 organizations, so as to revise provisions relative to department creation and operation of a
5 nonprofit corporation; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 12-2-6 of the Official Code of Georgia Annotated, relating to authority of the
9 Department of Natural Resources to arrange for and accept federal aid and cooperation,
10 organize volunteer services, and cooperate with government entities and civic organizations,
11 is amended by revising subsection (f) as follows:

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

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

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

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

25 (C) ~~No member of the Board of Natural Resources shall be an officer or director of any~~
26 ~~such nonprofit corporation~~ The governing body of any such nonprofit corporation shall

27 be referred to as the board of trustees and shall consist of not less than nine nor more
 28 than 20 members and shall always include at least three members of the Board of
 29 Natural Resources, together with such other members as may be elected by the board
 30 of trustees. Service by a member of the Board of Natural Resources as a member of
 31 such board of trustees shall not constitute a conflict of interest. The chairperson of the
 32 board of trustees shall be elected by the members of the board of trustees and shall be
 33 a member of the Board of Natural Resources. The board of trustees shall be authorized
 34 to fix the precise number of members, within the minimum and maximum numbers, by
 35 resolution adopted from time to time at a meeting of the board of trustees by a majority
 36 of all the members of the board of trustees then in office;

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

41 (E) Any such nonprofit corporation shall be subject to all laws relating to open
 42 meetings and the inspection of public records, except that public disclosure of the
 43 names and addresses of donors to any such nonprofit corporation shall be necessary
 44 only when such disclosure is required by the Internal Revenue Code;

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

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

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

56 (3) Any nonprofit corporation created pursuant to this subsection shall ~~make public and~~
 57 ~~provide~~ prepare an annual report ~~showing the identity of all donors and the amount each~~
 58 ~~person or entity donated as well as all expenditures or other disposal of money or~~
 59 ~~property donated.~~ Such report shall be provided to the Governor, the Lieutenant
 60 Governor, the Speaker of the House of Representatives, and the chairpersons of the
 61 House Committee on Natural Resources and Environment, the House Committee on
 62 Game, Fish, and Parks, and the Senate Natural Resources and the Environment

63 Committee. ~~Any such nonprofit corporation shall also provide such persons with a copy~~
64 ~~of all corporate filings with the federal Internal Revenue Service."~~

65 **SECTION 2.**

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