

House Bill 332 (FLOOR SUBSTITUTE)

By: Representatives Burns of the 159th

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 repeal and reenact Chapter 6A, relating to land conservation; to
3 provide for a short title; to create the Georgia Outdoor Stewardship Trust Fund; to create
4 funding mechanisms for the protection of conservation lands and to provide for their
5 operation; to provide for legislative intent; to provide for definitions; to establish procedural
6 requirements for approval of project proposals; to provide for reporting requirements; to
7 establish a board of trustees for the trust fund, with terms of office, meeting requirements,
8 and guidelines for prioritizing project applications; to provide for the promulgation of rules
9 and regulations; to provide for related matters; to provide for an effective date; to provide for
10 contingent repeal; 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 repealing Chapter 6A, relating to land conservation, and enacting
15 a new Chapter 6A to read as follows:

16 CHAPTER 6A

17 12-6A-1.

18 This chapter shall be known and may be cited as the 'Georgia Outdoor Stewardship Act.'

19 12-6A-2.

20 This chapter is enacted pursuant to Article III, Section IX, Paragraph VI(p) of the
21 Constitution, which authorizes up to 0.75 percent of all moneys received by the state from
22 the sales and use tax in the immediately preceding fiscal year to be dedicated to the

23 Georgia Outdoor Stewardship Trust Fund for the purpose of funding the protection of
 24 conservation land.

25 12-6A-3.

26 The intent of this chapter is to provide stewardship for state parks, state lands, and wildlife
 27 management areas; support local parks and trails; and protect critical conservation land.

28 12-6A-4.

29 As used in this chapter, the term:

30 (1) 'Conservation land' means land and water, or interests therein, that are in their
 31 undeveloped, natural states or that have been developed only to the extent consistent
 32 with, or are restored to be consistent with, at least one of the following environmental
 33 values or conservation benefits:

34 (A) Water quality protection for wetlands, rivers, streams, or lakes;

35 (B) Protection of wildlife habitat;

36 (C) Protection of cultural sites, heritage corridors, and archeological and historic
 37 resources;

38 (D) Protection of land around Georgia's military installations to ensure that missions
 39 are compatible with surrounding communities and that encroachment on military
 40 installations does not impair future missions;

41 (E) Support of economic development through conservation projects; or

42 (F) Provision for recreation in the form of boating, hiking, camping, fishing, hunting,
 43 running, jogging, biking, walking, or similar outdoor activities.

44 (2) 'Costs of acquisition' means all direct costs of activities which are required by
 45 applicable state laws and local ordinances or policies in order to convey a conservation
 46 easement, or to obtain fee simple or other lesser interests in real property, to a holder who
 47 will ensure the permanent protection of the property as conservation land; provided,
 48 however, that such costs shall not include any costs for services provided in violation of
 49 Chapter 40 of Title 43.

50 (3) 'Nongovernmental entity' means a nonprofit organization primarily concerned with
 51 the protection and conservation of land and natural resources, as evidenced by its
 52 organizational documents.

53 (4) 'Permanently protected conservation areas' means those resources:

54 (A) Owned by the federal government and dedicated for recreation or conservation or
 55 as a natural resource;

56 (B) Owned by the State of Georgia and dedicated for recreation or conservation or as
 57 a natural resource;

58 (C) Owned by a state or local unit of government or authority and subject to:

59 (i) A conservation easement ensuring that the property will be maintained in a
60 manner consistent with conservation land;

61 (ii) Contractual arrangements ensuring that, if the protected status is discontinued on
62 a parcel, such property will be replaced by other conservation land which at the time
63 of such replacement is of equal or greater monetary and resource protection value; or

64 (iii) A permanent restrictive covenant as provided in subsection (c) of Code Section
65 44-5-60; or

66 (D) Owned by any person or entity and subject to a conservation easement ensuring
67 that the property will be maintained in a manner consistent with conservation land.

68 (5) 'Project proposal' means any application seeking moneys from the Georgia Outdoor
69 Stewardship Trust Fund.

70 12-6A-5.

71 (a) There is established the Georgia Outdoor Stewardship Trust Fund as a separate fund
72 in the state treasury. Except as provided in subsections (c) and (d) of this Code section, the
73 state treasurer shall credit to the trust fund 0.40 percent of all moneys received by the state
74 from the sales and use tax in the immediately preceding year.

75 (b) Such funds shall not lapse to the general fund. Such funds shall be used to support the
76 protection and conservation of land and shall be used to supplement, not supplant,
77 department resources.

78 (c) In the event that, in any current year, the immediately preceding year's total moneys
79 received from the levy of a sales and use tax fall at least 10 percent below the total moneys
80 received from the levy of the tax in the year prior to the immediately preceding year, then
81 the amount that the state treasurer shall credit to the trust fund during the current year shall
82 be reduced by 20 percent of the trust fund credit, which amount shall instead be paid into
83 the state general fund.

84 (d) In any current year following a year for which the amount paid to the trust fund is
85 reduced in accordance with subsection (c) of this Code section, the same percentage shall
86 be paid into the state general fund as in the immediately preceding year unless the total
87 moneys received from the levy of the sales and use tax in the immediately preceding year
88 equal or exceed the total moneys received from the levy of the sales and use tax in the most
89 recent year in which no reduction in the amount paid to the trust fund occurred pursuant
90 to subsection (c) or (d) of this Code section.

91 12-6A-6.

92 (a) From within the Georgia Outdoor Stewardship Trust Fund, moneys shall be made
 93 available in each fiscal year for grants to any city, county, department, agency, or
 94 nongovernmental entity of this state having a project proposal which has been approved
 95 by the department. As a condition of eligibility for any such grant, a project proposal shall
 96 have as its primary purpose one of the following conservation objectives:

97 (1) To support state parks and trails. Funds disbursed for the purposes of this paragraph
 98 shall be used to aid in the improvement and maintenance of currently owned state parks
 99 and trails;

100 (2) To support local parks and trails of state and regional significance. Funds disbursed
 101 for purposes of this paragraph shall be grants to local governments to acquire and
 102 improve parks and trails within the jurisdiction and under the control of such local
 103 governments;

104 (3) To provide stewardship of conservation land. Funds disbursed for purposes of this
 105 paragraph shall be used for maintenance or restoration projects of the department to
 106 enhance public access, use, or safe enjoyment of permanently protected conservation
 107 land; or

108 (4)(A) To acquire critical areas for the provision or protection of clean water, wildlife,
 109 hunting, or fishing, for military installation buffering, or for natural resource-based
 110 outdoor recreation. Real property shall only be acquired pursuant to this chapter under
 111 the following circumstances:

112 (i) Where such property is, at the time of acquisition, being leased by the state as a
 113 wildlife management areas;

114 (ii) Where such property adjoins state wildlife management areas, state parks, or
 115 would provide better public access to such areas;

116 (iii) Lands identified in any wildlife action plan developed by any agency of the state;

117 (iv) Riparian lands so as to protect any drinking water supply; or

118 (v) Lands surrounding any military base or military installation.

119 (B) Acquisitions of real property or any interests therein pursuant to this chapter shall
 120 not be made through condemnation.

121 (b) From within the Georgia Outdoor Stewardship Trust Fund, moneys shall also be made
 122 available in each fiscal year for loans to any city, county, or nongovernmental entity to
 123 defray the costs of conservation land or of conservation easements placed upon property
 124 that ensure its permanent protection as conservation land. Any such loan shall bear interest
 125 at a rate established by the Georgia Environmental Finance Authority.

126 12-6A-7.

127 (a) The Board of Trustees of the Georgia Outdoor Stewardship Trust Fund shall accept
128 applications from state agencies, local governments, nonprofit and for-profit entities,
129 private land trusts, and individuals for project proposals eligible for funding. The board
130 shall evaluate the proposals received in accordance with this chapter and pursuant to
131 priorities established by the board.

132 (b)(1) The board, at their first meeting of each calendar year and working in conjunction
133 with the board of the Department of Natural Resources, shall prepare and approve a
134 proposal containing approved conservation projects and shall revise said proposal at each
135 subsequent quarterly meeting held during the year.

136 (2) The board shall not approve any proposal for which the total cost at the end of the
137 year violates the estimated revenue available under this chapter.

138 (c) Upon approval of each quarterly proposal by the board, the board of the Department
139 of Natural Resources shall review and approve the proposal of the Board of Trustees of the
140 Georgia Outdoor Stewardship Trust Fund.

141 (d)(1) Upon approval of each quarterly proposal by the board of the Department of
142 Natural Resources, the proposal of the Board of Trustees of the Georgia Outdoor
143 Stewardship Trust Fund shall be transmitted for final review and approval to the
144 chairpersons of the appropriations subcommittees of the House of Representatives and
145 Senate maintaining oversight authority over the Department of Natural Resources and the
146 Georgia Environmental Finance Authority.

147 (2) Each year's initial proposal shall be submitted by January 31 to the chairpersons of
148 the appropriations subcommittees of the House of Representatives and Senate
149 maintaining oversight authority over the Department of Natural Resources and the
150 Georgia Environmental Finance Authority.

151 (3) Proposals submitted to such subcommittees outside of a session of the General
152 Assembly shall be reviewed at a public meeting called at the discretion of the
153 chairpersons of the appropriations subcommittees of the House of Representatives and
154 Senate maintaining oversight authority over the Department of Natural Resources and the
155 Georgia Environmental Finance Authority.

156 (4) Should projects included in a proposal be subject to time constraints for completion
157 as determined by the Board of Trustees of the Georgia Outdoor Stewardship Trust Fund,
158 such board shall immediately provide written notice of same to the chairpersons of the
159 appropriations subcommittees of the House of Representatives and Senate maintaining
160 oversight authority over the Department of Natural Resources and the Georgia
161 Environmental Finance Authority.

162 (e) Upon approval of a proposal of the Board of Trustees of the Georgia Outdoor
 163 Stewardship Trust Fund by the appropriations subcommittees of the House of
 164 Representatives and Senate maintaining oversight authority over the Department of Natural
 165 Resources and the Georgia Environmental Finance Authority, the proposal and projects
 166 included therein shall be deemed approved.

167 (f) Such approved project shall become eligible for funding consistent with this chapter.
 168 The Georgia Environmental Finance Authority shall be responsible for the disbursement
 169 of funds following project approval.

170 12-6A-8.

171 The department may, by agreement with a city, county, or nongovernmental entity, accept
 172 and administer property acquired by such city, county, or nongovernmental entity pursuant
 173 to this chapter or may make such other agreements for the ownership and operation of the
 174 property as are outlined in Code Sections 12-3-32 and 27-1-6.

175 12-6A-9.

176 Following the close of each state fiscal year, the department shall submit an annual report
 177 of its activities for the preceding year pursuant to this chapter to the Governor, the
 178 Lieutenant Governor, the Speaker of the House of Representatives, the chairperson of the
 179 Ways and Means Committee of the House of Representatives, the chairperson of the Senate
 180 Finance Committee, the chairpersons of the Appropriations Committee of the House of
 181 Representatives and the Appropriations Committee of the Senate, and the chairpersons of
 182 the Natural Resources and Environment Committee of the House of Representatives and
 183 the Natural Resources and the Environment Committee of the Senate, and make such report
 184 available to the General Assembly.

185 12-6A-10.

186 (a) There is hereby established the Board of Trustees of the Georgia Outdoor Stewardship
 187 Trust Fund, which shall consist of 13 members as follows:

188 (1) The commissioner of the Georgia Department of Natural Resources, who shall also
 189 serve as chairperson of the board;

190 (2) The director of the State Forestry Commission;

191 (3) The director of the Environmental Protection Division of the Department of Natural
 192 Resources;

193 (4) The Commissioner of Agriculture;

194 (5) The director of the Coastal Resources Division of the Department of Natural
 195 Resources, as an ex officio, nonvoting member;

196 (6) The director of the Wildlife Resources Division of the Department of Natural
 197 Resources, as an ex officio, nonvoting member;

198 (7) The director of state parks of the Department of Natural Resources, as an ex officio,
 199 nonvoting member; and

200 (8)(A) Three members appointed by the Speaker of the House of Representatives; and

201 (B) Three members appointed by the President of the Senate.

202 The members appointed pursuant to this paragraph may be selected from any of the
 203 following private and public sectors: forestry, conservation, hunting, fishing, and local
 204 government. Such members shall serve four-year terms, provided that three of the initial
 205 appointees shall each serve an initial two-year term. Such members shall be and shall
 206 remain Georgia residents during their tenure on the board and shall possess a demonstrated
 207 knowledge of and commitment to land conservation and recreation.

208 (b) The board shall meet at least quarterly each year for the transaction of its business and
 209 to review the progress of the Georgia Outdoor Stewardship Trust Fund. Three-fifths of the
 210 members of the board present at any board meeting shall constitute a quorum in order to
 211 conduct business; provided, however, that in absence of a quorum, a majority of the
 212 members present may adjourn the meeting from time to time until a quorum shall attend.
 213 Any board action or recommendation must be approved by a simple majority of the
 214 members of the entire board then in office, unless specified otherwise in this Code section.

215 (c) Beginning no later than July 1, 2019, and annually thereafter, the board shall accept
 216 applications from state agencies, local governments, nonprofit and for-profit organizations,
 217 private land trusts, and individuals for project proposals eligible for funding. The board
 218 shall evaluate the proposals received pursuant to priorities established by the board.

219 (d) In reviewing applications, the board shall give increased priority to projects:

220 (1) For which matching funds are available;

221 (2) That support and promote hunting, fishing, and wildlife viewing;

222 (3) That contribute to improving the quality and quantity of surface water and ground
 223 water;

224 (4) That contribute to improving the water quality and flow of springs; and

225 (5) For which the state's land conservation plans overlap with the United States military's
 226 need to protect lands, water, and habitats so as to ensure the sustainability of military
 227 missions including:

228 (A) Protecting habitats on nonmilitary land for any species found on United States
 229 military land that is designated as threatened or endangered, or is a candidate for such
 230 designation under the federal Endangered Species Act of 1973, as amended, 16 U.S.C.
 231 Section 1531, et seq. or state law;

232 (B) Protecting areas underlying low-level United States military air corridors or
233 operating areas; and
234 (C) Protecting areas identified as clear zones, accident potential zones, and air
235 installation compatible use buffer zones delineated by the United States military, and
236 for which federal or other funding is available to assist with the project.

237 12-6A-11.

238 The department shall promulgate rules and regulations as necessary to implement the
239 provisions of this chapter."

240 **SECTION 2.**

241 The Georgia Outdoor Stewardship Trust Fund established by this chapter shall be a successor
242 to the former Georgia Land Conservation Trust Fund and the Georgia Land Conservation
243 Revolving Loan Fund. On January 1, 2019, all funds in the Georgia Land Conservation
244 Trust Fund and the Georgia Land Conservation Revolving Loan Fund shall be transferred
245 into the Georgia Outdoor Stewardship Trust Fund.

246 **SECTION 3.**

247 This Act shall become effective on July 1, 2019, only if an amendment to the Constitution
248 authorizing the General Assembly to provide by law for allocation of up to 0.75 percent of
249 the revenue derived from the state sales and use tax to a trust fund to be used for the
250 protection of conservation land is ratified by the voters at the November, 2018, state-wide
251 general election. If such an amendment is not so ratified, then this Act shall not become
252 effective and shall stand repealed on January 1, 2019.

253 **SECTION 4.**

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