

House Bill 422

By: Representatives Hitchens of the 161st, Rogers of the 10th, Corbett of the 174th,
Deffenbaugh of the 1st, Ealum of the 153rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated,
2 relating to the Department of Veterans Service, so as to authorize incorporation of a
3 nonprofit corporation as a public foundation; to provide requirements for the same; to
4 provide for the purpose and governance of such public foundation; to provide for annual
5 reports; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated, relating to the
9 Department of Veterans Service, is amended by adding a new Code section to read as
10 follows:

11 "38-4-13.

12 (a) The Veterans Service Board shall have the power and authority to establish a nonprofit
13 corporation to be designated as the Georgia Veterans Service Foundation, Inc., to qualify
14 as a public foundation under Section 501(c)(3) of the federal Internal Revenue Code for the
15 purposes described in this Code section. The nonprofit corporation created pursuant to this
16 Code section 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 (b)(1) The purpose of the Georgia Veterans Service Foundation, Inc., shall be to actively
19 seek supplemental funds and in-kind goods, services, and property to promote Georgia's
20 state war veterans' homes and veterans' cemeteries and for any other purpose of the
21 Veterans Service Board. Funds received by the foundation may be conveyed to the
22 Department of Veterans Service or awarded through a competitive grant process
23 administered by the Veterans Service Board.

24 (2) Georgia Veterans Service Foundation, Inc., shall be governed by a board of directors
25 composed of seven persons, who shall not be the same individuals as the currently
26 serving members of the Veterans Service Board, who shall be appointed by the

27 commissioner of veterans service, subject to the approval of the Veterans Service Board.
28 Persons appointed to the board of directors shall have honorably served not less than
29 three months in the armed forces of the United States or two years in a reserve or
30 National Guard component of the armed forces of the United States. The members of the
31 board of directors shall serve for seven-year terms that shall be staggered such that one
32 member completes a term each year. The members may succeed themselves on the board
33 of directors one time and thereafter may be reappointed to additional terms following a
34 three-year interval after completion of any second consecutive term.

35 (3) The board of directors shall meet at least one time each year to conduct the business
36 of Georgia Veterans Service Foundation, Inc. The board of directors shall annually elect
37 from its membership a chairperson, a vice chairperson, a secretary, and a treasurer.

38 (4) The board of directors shall appoint a chief executive officer, a chief operating
39 officer, and a chief financial officer of Georgia Veterans Service Foundation, Inc., from
40 individuals who are employees of the Department of Veterans Service, excluding the
41 commissioner of veterans service, who shall serve in these capacities without
42 compensation but who shall be entitled to reimbursement of expenses reasonably incurred
43 from Georgia Veterans Service Foundation, Inc., for performing their duties under this
44 Code section.

45 (c) The nonprofit corporation created pursuant to this Code section shall be subject to the
46 following provisions:

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

49 (2) Upon dissolution of such nonprofit corporation incorporated by the Veterans Service
50 Board, any assets shall revert to the Veterans Service Board or to any successor to the
51 Veterans Service Board or, failing such succession, to the State of Georgia;

52 (3) To avoid the appearance of undue influence on regulatory functions by donors, no
53 donations to such nonprofit corporation from private sources shall be used for salaries,
54 benefits, or travel expenses of the Veterans Service Board;

55 (4) Such nonprofit corporation shall be subject to all laws relating to open meetings and
56 the inspection of public records;

57 (5) The Veterans Service Board shall not be liable for the action or omission to act of
58 such nonprofit corporation; provided, however, as an administrative cost, such nonprofit
59 corporation shall obtain and maintain errors and omissions liability coverage insurance
60 in the amount of not less than \$1 million; and

61 (6) No debts, bonds, notes, or other obligations incurred by such nonprofit corporation
62 shall constitute an indebtedness or obligation of the State of Georgia nor shall any act of
63 such nonprofit corporation constitute or result in the creation of an indebtedness of the

64 state; provided, however, such nonprofit corporation shall not have the power to incur
65 long-term or short-term indebtedness in connection with its authority under this Code
66 section but may incur short-term credit obligations. No holder or holders of such bonds,
67 notes, or other obligations shall ever have the right to compel any exercise of the taxing
68 power of the state nor to enforce the payment thereof against the state.

69 (d) Georgia Veterans Service Foundation, Inc., shall prepare and make public an annual
70 report identifying all donors to Georgia Veterans Service Foundation, Inc., and the amount
71 or property each donor donated, as well as all expenditures or other expenditures of money
72 or property donated. Such report shall be provided to the Governor, the Lieutenant
73 Governor, the Speaker of the House of Representatives, and the chairpersons of the House
74 Committee on Defense and Veterans Affairs and the Senate Veterans, Military and
75 Homeland Security Committee, or their successors. Georgia Veterans Service Foundation,
76 Inc., shall also provide such persons with a copy of all filings with the federal Internal
77 Revenue Service."

78 **SECTION 2.**

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