

The Senate Committee on Economic Development and Tourism offered the following substitute to HB 454:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to parks,  
2 historic areas, memorials, and recreation, so as to create the Vince Dooley Battlefield Trust  
3 Fund and Vince Dooley Battlefield Trust Fund Program; to provide for a short title; to  
4 provide for definitions; to provide matching grants to organizations seeking to acquire  
5 property interests in certain battlefields; to provide for procedures, requirements, and  
6 limitations for such fund and program; to provide for application and review criteria; to  
7 provide for expenditure of funds; to provide for annual accounting; to require that any  
8 acquisition include a perpetual conservation easement placing restrictions on the use or  
9 development of the property or interest therein; to amend Chapter 3 of Title 50 of the Official  
10 Code of Georgia Annotated, relating to state flag, seal, and other symbols, so as to revise  
11 provisions for the protection of government statues, monuments, plaques, banners, and other  
12 commemorative symbols; to authorize the Attorney General and local district attorney to  
13 represent the interests of monument owners and the state in actions relating to such  
14 commemorative symbols; to provide for a procedure by which an agency may remove or  
15 relocate such commemorative symbols; to provide for the creation of a registry of all  
16 monuments in this state located on public property to be maintained by the Department of  
17 Community Affairs; to provide for related matters; to repeal conflicting laws; and for other  
18 purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 PART I  
21 SECTION 1-1.

22 Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to parks, historic  
23 areas, memorials, and recreation, is amended by adding a new article to read as follows:

24 "ARTICLE 13

25 12-3-710.

26 This article shall be known and may be cited as the 'Vince Dooley Battlefield Trust Fund  
27 Act.'

28 12-3-711.

29 As used in this article, the term:

30 (1) 'Conservation easement' shall have the same meaning as set forth in Code  
31 Section 44-10-2.

32 (2) 'Department' means the Department of Natural Resources.

33 (3) 'Fund' means the Vince Dooley Battlefield Trust Fund.

34 (4) 'Matching contributions' means cash and the value of any contribution due to a  
35 bargain sale or the donation of land or interest therein made by the landowner as part of  
36 a project proposal.

37 (5) 'Organization' means a not for profit charitable corporation or trust authorized to do  
38 business in this state which is involved in the acquisition and management of interests in  
39 land for historic preservation purposes and which has tax exempt status as a public  
40 charity under the Internal Revenue Code of 1986.

41 (6) 'Program' means the Vince Dooley Battlefield Trust Fund Program.

42 (7) 'Project proposal' means any application seeking money from the Vince Dooley  
43 Battlefield Trust Fund Program.

44 (8) 'State agency' means the State of Georgia or any department, division, board, bureau,  
45 commission, or other agency of the executive branch of state government which has a  
46 mission to preserve, protect, or conserve natural, historical, or cultural resources.

47 12-3-712.

48 (a)(1) The state treasurer shall establish a separate trust fund in the state treasury that  
49 shall be known as the Vince Dooley Battlefield Trust Fund, consisting of annual  
50 appropriations by the General Assembly to the fund, public or private grants, gifts,  
51 donations, or contributions dedicated to the fund for battlefield preservation, and moneys  
52 from any other source, including local, state, or federal program funds dedicated to the  
53 fund for battlefield preservation.

54 (2) The state treasurer shall invest the money held in the fund in the same manner in  
55 which state funds are invested as authorized by the State Depository Board pursuant to  
56 Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the fund shall  
57 be accounted for separately and shall be credited to the fund to be disbursed as other  
58 moneys in the fund.

59 (b) Moneys held in the fund shall be expended by the department solely as provided in this  
60 article.

61 (c) The department shall prepare an accounting of the funds expended pursuant to this  
62 article during the most recently completed fiscal year to be provided to the Office of  
63 Planning and Budget, the House Budget and Research Office, and the Senate Budget and  
64 Evaluation Office by January 1 of each year.

65 12-3-713.

66 (a) There is established the Vince Dooley Battlefield Trust Fund Program to be  
67 administered by the department. In administering the program, the department shall, each  
68 fiscal year, make available money from the Vince Dooley Battlefield Trust Fund for  
69 matching grants to any organization or state agency having a project proposal which has  
70 been reviewed and approved by the department.

71 (b) The department shall make available money from the fund solely for the purpose of  
72 awarding grants to organizations or state agencies for the fee simple purchase of, or  
73 purchase of permanent protective interests in, any Georgia battlefield listed in the following  
74 reports:

75 (1) The Report on the Nation's Civil War Battlefields by the Civil War Sites Advisory  
76 Commission (Civil War Sites Advisory Commission/National Parks Service, 1993, as  
77 amended); or

78 (2) The Report to Congress on the Historic Preservation of Revolutionary War and War  
79 of 1812 Sites in the United States by the American Battlefield Protection Program of the  
80 National Park Service (United States Department of the Interior/National Park Service,  
81 2007, as amended).

82 (c) Organizations seeking grant funding shall be required to provide at least \$1.00 in  
83 matching contributions for each \$1.00 received from the fund for the project proposal.  
84 Unless the applicant is a state agency, no state funds shall be included in determining the  
85 amount of such matching contributions.

86 (d) Eligible costs for which money from the fund may be allocated include acquisition of  
87 land and any improvements thereon or permanent protective interests, such as perpetual  
88 conservation easements, and costs associated with such acquisitions, including the cost of  
89 any appraisals, environmental reports, surveys, title searches and title insurance, and other  
90 closing costs.

91 (e) Grants from the fund shall not exceed 50 percent of the appraised value of the land or  
92 permanent protective interest therein.

93 (f) Grants from the fund may be awarded for prospective purchases or for acquisitions on  
94 which the applicant has closed. In the latter case, the applicant shall demonstrate that:

95 (1) The closing occurred no more than 12 months prior to the date of application for the  
96 grant; and

97 (2) An identifiable threat to the resource or compelling need for preservation existed at  
98 the time of the purchase.

99 (g) Money from the fund, in an amount not to exceed 5 percent of total moneys held by  
100 the fund, shall be made available to the department for costs incurred in administering the  
101 program each fiscal year.

102 12-3-714.

103 The department shall establish guidelines for applications, evaluations, and awards from  
104 the fund in consultation with relevant battlefield preservation interests. In awarding grants,  
105 the department shall give primary consideration to the following factors:

106 (1) Significance of the battlefield that is the subject of the project proposal;

107 (2) Degree to which the property or interest therein to be acquired falls within the core  
108 and study areas of the battlefield, as described in the relevant report of the American  
109 Battlefield Protection Program;

110 (3) Proximity of the property to other protected lands;

111 (4) Threats to the integrity of features associated with the relevant battle;

112 (5) The financial capacity of the applicant to complete the project; and

113 (6) The administrative capacity of the applicant to maintain and manage the property in  
114 a manner that is consistent with public interests, such as recreation, research, heritage  
115 tourism promotion, and orderly community development.

116 12-3-715.

117 (a) Any organization making an acquisition of property or interest therein pursuant to this  
118 article shall grant to the department or other holder a perpetual conservation easement  
119 placing restrictions on the use or development of the property. In cases where the easement  
120 is granted to a holder other than the department, all terms and conditions of the easement  
121 shall accomplish the perpetual preservation of the property. Such other holder shall  
122 demonstrate to the department that it has the capacity and expertise to manage and enforce  
123 the terms of the easement.

124 (b) Nothing in this Code section shall preclude the subsequent transfer or assignment by  
125 a state agency or other holder of any property interest acquired pursuant to this article to  
126 the State of Georgia or to the United States of America to be incorporated into a national  
127 park, national forest, national wildlife refuge, or other national conservation area in  
128 accordance with 54 U.S.C. Section 10010, 16 U.S.C. Section 551, the Fish and Wildlife  
129 Act of 1956 (16 U.S.C. Section 742a et seq.), or 16 U.S.C. Section 1131, as amended and  
130 applicable. The department shall facilitate transfers and assignments of any such interests."

131

## PART II

132

### SECTION 2-1.

133 Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state flag, seal,  
134 and other symbols, is amended by revising subsection (b) of Code Section 50-3-1, relating  
135 to description of state flag, militia to carry flag, monument offenses, penalties, and cause of  
136 action and adding new subsections to read as follows:

137 "(b)(1) As used in this subsection, the term:

138 (A) 'Agency' means any state or local government entity, including any department,  
139 agency, bureau, authority, board, educational institution, commission, or  
140 instrumentality or subdivision thereof, and specifically including a local board of

141 education, the Board of Regents of the University System of Georgia, and any  
142 institution of the University System of Georgia.

143 (B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure  
144 name, display, or memorial constructed and located with the intent of being  
145 permanently displayed and perpetually maintained that is:

146 (i) Dedicated to a historical entity or historically significant military, religious, civil,  
147 civil rights, political, social, or cultural events or series of events; or

148 (ii) Dedicated to, honors, or recounts the military service of any past or present  
149 military personnel of this state; the United States of America or the several states  
150 thereof; or the Confederate States of America or the several states thereof.

151 (C) 'Officer' means an officer, official, body, employee, contractor, representative, or  
152 agent of any agency, whether appointed or elected.

153 (2) It shall be unlawful for any person, firm, corporation, officer, agency, or other entity  
154 to mutilate, deface, defile, damage, destroy, lose, or abuse contemptuously any publicly  
155 or privately owned monument located, erected, constructed, created, or maintained on  
156 real property owned by an agency or the State of Georgia. No person, firm, corporation,  
157 officer, or agency, or other entity shall remove or conceal from display any such  
158 monument for the purpose of preventing the visible display of the same. A ~~violation of~~  
159 ~~this paragraph shall constitute~~ person that violates this Code section shall be guilty of a  
160 misdemeanor.

161 (3) No publicly or privately owned monument erected, constructed, created, or  
162 maintained on the public property of this state or its agencies, departments, authorities,  
163 or instrumentalities or on real property owned by an agency or the State of Georgia shall  
164 be relocated, removed, concealed, obscured, or altered in any fashion by any officer or  
165 agency; provided, however, that appropriate measures for the preservation, ~~protection,~~  
166 ~~and interpretation~~ and protection in place of such monument or memorial shall not be  
167 prohibited.

168 (4) Any person, firm, corporation, officer, agency, or other entity that ~~damages, destroys,~~  
169 ~~or loses a monument or that takes or removes a monument without replacing it~~ violates  
170 this Code section shall be liable for treble the amount of the full cost of repair or  
171 replacement of such monument and may be subject to exemplary damages ~~unless such~~  
172 ~~person or entity was authorized to take such action by the public entity owning such~~  
173 ~~monument.~~ In addition to treble the cost of repair or replacement and possible exemplary  
174 damages, the person, firm, corporation, officer, agency, or other entity shall also be liable  
175 for the attorney's fees and court costs expended by the ~~public entity owner of the~~  
176 ~~monument or person, group, or legal entity~~ claimant under this Code section in any action  
177 or proceeding required to establish liability and collect amounts owed. Should a ~~public~~  
178 ~~entity owner of the monument or person, group, or other legal entity~~ prevail in any action  
179 claimant under this Code section prevail in any action, such prevailing party claimant  
180 shall use the moneys collected from the party mutilating, defacing, defiling, damaging,  
181 destroying, losing, abusing, or relocating such monument to timely pay for the cost of ~~or~~  
182 ~~repair or placement~~ restoration of the monument to its former condition prior to being  
183 mutilated, defaced, defiled, damaged, destroyed, lost, abused, or relocated ~~upon moneys~~  
184 ~~being collected from the party damaging, destroying, or losing such monument.~~

185 (5) ~~A public entity owning a monument or any~~ Any interested person, group, or legal  
186 entity, without regard to ownership of the monument or a specialized and personalized  
187 injury, shall have standing and a right to bring a cause of action for any conduct  
188 prohibited by this Code section ~~for damages as permitted by this Code section.~~ Such  
189 claimant may bring an action individually or in a representative capacity against the  
190 person, firm, corporation, officer, agency, or other entity that violates this Code section  
191 to seek injunctive relief and to recover attorney's fees, expenses of litigation, and general  
192 and exemplary damages sustained as a result of such unlawful actions. Such action shall  
193 be brought in the superior court of the county in which the monument was located.

194 (6) Except as provided in this ~~paragraph~~ subsection, it shall be unlawful for any person,  
195 firm, corporation, officer, agency, or other entity acting without authority to mutilate,  
196 deface, defile, damage, destroy, alter, abuse contemptuously, relocate, remove, conceal,  
197 or obscure any privately owned monument located on privately owned property. Any  
198 person or entity that suffers injury or damages as a result of a violation of this paragraph  
199 may bring an action individually or in a representative capacity against the person or  
200 persons, firm, corporation, officer, agency, or other entity committing such violations to  
201 seek to recover general and exemplary damages sustained as a result of ~~such person's or~~  
202 ~~persons'~~ unlawful actions of any such defendant. Any person, firm, corporation, officer,  
203 agency, or other entity that mutilates, defaces, defiles, damages, destroys, alters, abuses  
204 contemptuously, relocates, removes, conceals, or obscures a monument or that takes or  
205 removes a privately owned monument without the authority to do so shall be liable for  
206 treble the amount of the full cost of repair or replacement of such monument and may be  
207 subject to exemplary damages. In addition to treble the cost of repair or replacement and  
208 possible exemplary damages, such person, firm, corporation, officer, agency, or other  
209 entity shall also be liable for the attorney's fees and court costs expended by the claimant  
210 under this Code section in any action or proceeding required to establish liability and  
211 collect amounts owed. This paragraph shall not apply to ~~an~~ a private owner of real  
212 property ~~storing~~ regarding such owner's privately owned monuments.

213 (7) ~~Nothing~~ Other than the provisions of paragraph (11) of this subsection, nothing in  
214 this Code section shall prevent an agency from relocating a monument when relocation  
215 is necessary for the construction, expansion, or alteration of edifices, buildings, roads,  
216 streets, highways, or other transportation construction projects. Any monument relocated  
217 for such purposes shall be relocated to a site of similar prominence, honor, visibility, and  
218 access within the same county or municipality in which the monument was originally  
219 located. A monument shall not be relocated to a museum, cemetery, or mausoleum  
220 unless it was originally placed at such location.

221 (8) In all cases when there has been an alleged violation of this Code section, the  
222 Attorney General or the district attorney of the county in which the monument was  
223 located may represent the interests of the monument owner, the interests of others with  
224 interest in the monument, and the interests of the state as parens patriae in all legal  
225 matters pertaining to the enforcement of this Code section. The Attorney General or the  
226 district attorney may bring actions, and, insofar as an action of this nature may be deemed  
227 an action against the state and its agencies, the state expressly gives its consent thereto.  
228 (9) Conduct prohibited by this Code section shall be enjoined by the appropriate superior  
229 court upon proper application.  
230 (10) No claimant shall be required to show a particularized or personal concrete injury  
231 to make a claim for damages.  
232 (11) In the event that an agency desires to remove a monument from public display or  
233 relocate such monument, the agency shall give 90 days' public notice in the legal organ  
234 of the county in which such monument is located of such intent and, if the agency desires  
235 to remove the monument from public display, shall solicit in such public notice any third  
236 party that would be interested in receiving such monument for public display. No action  
237 with regard to removing or relocating such monument shall be taken by the agency until  
238 the expiration of the 90 day period, provided that such period shall be tolled during the  
239 pendency of any litigation requesting an injunction to prevent such agency from  
240 removing such monument from public display or relocating such monument or requesting  
241 other sanctions under this Code section until a decision on the merits of such litigation  
242 is final. Except as may be otherwise ordered by a court of competent jurisdiction, at the  
243 conclusion of the 90 day period, the agency shall either safely store and maintain such  
244 monument or, if a third party so requests, transfer the monument to such third party,  
245 provided that such third party agrees to publicly display the monument at either a location  
246 owned by such third party or a location owned by a public agency that such third party  
247 has permission to use for such display. In the event that multiple third parties are

248 interested in receiving such monument for public display, preference shall be given to the  
249 third party that is willing to publicly display such monument in a location within the  
250 jurisdiction where the monument is located. The agency shall be responsible for all costs  
251 of moving and placing the monument in a new location."

252 "(d) Nothing in this Code section shall be construed so as to interfere with the rights of any  
253 private monument owner. For the purposes of protection pursuant to this Code section, any  
254 monument found to be privately owned shall be treated as publicly owned. No transfer of  
255 title of such a monument is conveyed by this Code section.

256 (e) The Department of Community Affairs shall establish a registry of all monuments in  
257 this state located on public property. Such registry shall contain, at a minimum, a  
258 description of each monument, the location of such monument, and a statement as to  
259 whether the monument itself is privately or publicly owned and the name of the owner.  
260 Such registry shall include monuments that are in storage as well as monuments on public  
261 display. No later than December 31, 2025, each agency shall send to the Department of  
262 Community Affairs a comprehensive list of all monuments within the jurisdiction of such  
263 agency containing the information set forth in this Code section. Thereafter, any time a  
264 monument is relocated to a place that is different from the location on the monument  
265 registry maintained by the Department of Community Affairs the agency within whose  
266 jurisdiction such monument is located shall immediately notify the Department of  
267 Community Affairs of the new location of the monument."

268

**PART III**

269

**SECTION 3-1.**

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