

House Bill 332 (AS PASSED HOUSE AND SENATE)

By: Representatives Watson of the 172nd, Burns of the 159th, Nimmer of the 178th, Smith of the 70th, Frye of the 118th, and others

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 annual grants for counties eligible through Outdoor
10 Stewardship Trust Fund land acquisitions; to provide for limits and restrictions to grants; to
11 provide for related matters; to provide for an effective date; to provide for contingent repeal;
12 to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
16 resources, is amended by repealing Chapter 6A, relating to land conservation, and enacting
17 a new Chapter 6A to read as follows:

18 "CHAPTER 6A

19 12-6A-1.

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

21 12-6A-2.

22 This chapter is enacted pursuant to Article III, Section IX, Paragraph VI(p) of the
23 Constitution, which authorizes up to 80 percent of all moneys received by the state from

24 the sales and use tax collected by outdoor recreation equipment establishments classified
 25 under the 2007 North American Industry Classification Code 451110, sporting goods stores
 26 in the immediately preceding fiscal year to be dedicated to the Georgia Outdoor
 27 Stewardship Trust Fund for the purpose of funding the protection of conservation land.

28 12-6A-3.

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

31 12-6A-4.

32 As used in this chapter, the term:

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

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

38 (B) Protection of wildlife habitat;

39 (C) Protection of cultural sites, heritage corridors, and archeological and historic
 40 resources;

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

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

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

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

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

56 (4) 'Outdoor recreation equipment establishments' means places of business classified
 57 under the 2007 North American Industry Classification Code 451110, sporting goods
 58 stores.

- 59 (5) 'Permanently protected conservation areas' means those resources:
 60 (A) Owned by the federal government and dedicated for recreation or conservation or
 61 as a natural resource;
 62 (B) Owned by the State of Georgia and dedicated for recreation or conservation or as
 63 a natural resource;
 64 (C) Owned by a state or local unit of government or authority and subject to:
 65 (i) A conservation easement ensuring that the property will be maintained in a
 66 manner consistent with conservation land;
 67 (ii) Contractual arrangements ensuring that, if the protected status is discontinued on
 68 a parcel, such property will be replaced by other conservation land which at the time
 69 of such replacement is of equal or greater monetary and resource protection value; or
 70 (iii) A permanent restrictive covenant as provided in subsection (c) of Code Section
 71 44-5-60; or
 72 (D) Owned by any person or entity and subject to a conservation easement ensuring
 73 that the property will be maintained in a manner consistent with conservation land.
 74 (6) 'Project proposal' means any application seeking moneys from the Georgia Outdoor
 75 Stewardship Trust Fund.

76 12-6A-5.

- 77 (a) There is established the Georgia Outdoor Stewardship Trust Fund as a separate fund
 78 in the state treasury. Except as provided in subsections (c) and (d) of this Code section, the
 79 state treasurer shall credit to the trust fund 40 percent of all moneys received by the state
 80 from the sales and use tax collected by establishments classified under the 2007 North
 81 American Industry Classification Code 451110, sporting goods stores, in the immediately
 82 preceding year.
 83 (b) Such funds shall not lapse to the general fund. Such funds shall be used to support the
 84 protection and conservation of land and shall be used to supplement, not supplant,
 85 department resources.

86 (c)(1) In the event that, in any current year, the immediately preceding year's total
 87 moneys received from the levy of a sales and use tax fall at least 1 percent below the total
 88 moneys received from the levy of the tax in the year prior to the immediately preceding
 89 year, then the amount that the state treasurer shall credit to the trust fund during the
 90 current year shall be reduced by 20 percent of the trust fund credit, which amount shall
 91 instead be paid into the state general fund.

92 (2) In the event that, in a year following the year of an initial trust fund credit reduction
 93 pursuant to paragraph (1) of this subsection, the immediately preceding year's total
 94 moneys received from the levy of a sales and use tax fall at least 1 percent below the total

95 moneys received from the levy of the tax in the year prior to the immediately preceding
 96 year, then the amount that the state treasurer shall credit to the trust fund during the
 97 current year shall be reduced by 50 percent of the trust fund credit, which amount shall
 98 instead be paid into the state general fund.

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

106 12-6A-6.

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

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

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

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

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

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

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

- 131 (iii) Lands identified in any wildlife action plan developed by any agency of the state;
 132 (iv) Riparian lands so as to protect any drinking water supply; or
 133 (v) Lands surrounding any military base or military installation.
- 134 (B) Acquisitions of real property or any interests therein pursuant to this chapter shall
 135 not be made through condemnation.
- 136 (b) From within the Georgia Outdoor Stewardship Trust Fund, moneys may also be made
 137 available in each fiscal year for loans to any city, county, or nongovernmental entity to
 138 defray the costs of conservation land or of conservation easements placed upon property
 139 that ensure its permanent protection as conservation land. Any such loan shall bear interest
 140 at a rate established by the Georgia Environmental Finance Authority.
- 141 (c) From within the Georgia Outdoor Stewardship Trust Fund, moneys shall also be made
 142 available in each fiscal year for grants as authorized by Code Section 12-6A-12.
- 143 12-6A-7.
- 144 (a) The Board of Trustees of the Georgia Outdoor Stewardship Trust Fund shall accept
 145 applications from state agencies, local governments, nonprofit and for-profit entities,
 146 private land trusts, and individuals for project proposals eligible for funding. The board
 147 shall evaluate the proposals received in accordance with this chapter and pursuant to
 148 priorities established by the board.
- 149 (b)(1) The board, at their first meeting of each calendar year and working in conjunction
 150 with the board of the Department of Natural Resources, shall prepare and approve a
 151 proposal containing approved conservation projects and shall revise said proposal at each
 152 subsequent quarterly meeting held during the year.
- 153 (2) The board shall not approve any proposal for which the total cost at the end of the
 154 year violates the estimated revenue available under this chapter.
- 155 (c) Upon approval of each quarterly proposal by the board, the board of the Department
 156 of Natural Resources shall review and approve the proposal of the Board of Trustees of the
 157 Georgia Outdoor Stewardship Trust Fund.
- 158 (d)(1) Upon approval of each quarterly proposal by the board of the Department of
 159 Natural Resources, the proposal of the Board of Trustees of the Georgia Outdoor
 160 Stewardship Trust Fund shall be transmitted for final review and approval to the
 161 chairpersons of the appropriations subcommittees of the House of Representatives and
 162 Senate maintaining oversight authority over the Department of Natural Resources and the
 163 Georgia Environmental Finance Authority.
- 164 (2) Each year's initial proposal shall be submitted by January 31 to the chairpersons of
 165 the appropriations subcommittees of the House of Representatives and Senate

166 maintaining oversight authority over the Department of Natural Resources and the
167 Georgia Environmental Finance Authority.

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

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

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

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

187 12-6A-8.

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

192 12-6A-9.

193 Following the close of each state fiscal year, the department shall submit an annual report
194 of its activities for the preceding year pursuant to this chapter to the Governor, the
195 Lieutenant Governor, the Speaker of the House of Representatives, the chairperson of the
196 Ways and Means Committee of the House of Representatives, the chairperson of the Senate
197 Finance Committee, the chairpersons of the Appropriations Committee of the House of
198 Representatives and the Appropriations Committee of the Senate, and the chairpersons of
199 the Natural Resources and Environment Committee of the House of Representatives and

200 the Natural Resources and the Environment Committee of the Senate, and make such report
 201 available to the General Assembly.

202 12-6A-10.

203 (a) There is hereby established the Board of Trustees of the Georgia Outdoor Stewardship
 204 Trust Fund, which shall consist of 11 members as follows:

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

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

208 (3) The director of the Environmental Protection Division of the Department of Natural
 209 Resources;

210 (4) The commissioner of Transportation;

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

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

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

217 (8)(A) Two members appointed by the Speaker of the House of Representatives; and

218 (B) Two members appointed by the President of the Senate.

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

225 (b) The board shall meet at least quarterly each year for the transaction of its business and
 226 to review the progress of the Georgia Outdoor Stewardship Trust Fund. Three-fifths of the
 227 members of the board present at any board meeting shall constitute a quorum in order to
 228 conduct business; provided, however, that in absence of a quorum, a majority of the
 229 members present may adjourn the meeting from time to time until a quorum shall attend.

230 Any board action or recommendation must be approved by a simple majority of the
 231 members of the entire board then in office, unless specified otherwise in this Code section.

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

- 236 (d) In reviewing applications, the board shall give increased priority to projects:
 237 (1) For which matching funds are available;
 238 (2) That support and promote hunting, fishing, and wildlife viewing;
 239 (3) That contribute to improving the quality and quantity of surface water and ground
 240 water;
 241 (4) That contribute to improving the water quality and flow of springs; and
 242 (5) For which the state's land conservation plans overlap with the United States military's
 243 need to protect lands, water, and habitats so as to ensure the sustainability of military
 244 missions including:
 245 (A) Protecting habitats on nonmilitary land for any species found on United States
 246 military land that is designated as threatened or endangered, or is a candidate for such
 247 designation under the federal Endangered Species Act of 1973, as amended, 16 U.S.C.
 248 Section 1531, et seq. or state law;
 249 (B) Protecting areas underlying low-level United States military air corridors or
 250 operating areas; and
 251 (C) Protecting areas identified as clear zones, accident potential zones, and air
 252 installation compatible use buffer zones delineated by the United States military, and
 253 for which federal or other funding is available to assist with the project.

254 12-6A-11.

255 The department shall promulgate rules and regulations as necessary to implement the
 256 provisions of this chapter.

257 12-6A-12.

- 258 (a) Each county in which is located 20,000 acres or more of unimproved real property
 259 belonging to the state and under the custody or control of the department, in which such
 260 state-owned property exceeds 10 percent of the taxable real property in the county, and in
 261 which such property represents 10 percent or more of the assessed tax digest of the county
 262 may receive from the department an annual grant as provided in this Code section.
 263 (b) For each county eligible to receive a grant pursuant to subsection (a) of this Code
 264 section, the department shall calculate the approximate value of public services which the
 265 county provides the department each year; provided, however, that such sum shall not
 266 exceed the amount the county would charge any other landowner for such services. The
 267 department shall request funds in its annual operating budget each year to reimburse all
 268 eligible counties for the provision of such services. In the event the amount appropriated
 269 in any year is less than the amount requested, each eligible county shall receive a pro rata
 270 share based on the estimated value of services provided.

271 (c) The department is directed to make an annual calculation of the amount of unimproved
 272 state-owned real property under its custody or control and determine which counties are
 273 eligible for a grant pursuant to subsection (a) of this Code section. The first such
 274 determination shall be completed not later than December 31, 2020, and each subsequent
 275 determination shall be made not later than December 31 of each year. The department is
 276 further directed to calculate the approximate value of public services provided by each
 277 eligible county as provided in subsection (a) of this Code section.

278 (d) Only land acquired with Outdoor Stewardship Trust Fund moneys shall be used in the
 279 calculation of this grant.

280 (e) No more than 10 percent of Outdoor Stewardship Trust Fund moneys shall be allocated
 281 to grants to offset local taxes during any fiscal year.

282 (f) No county shall be authorized to receive a grant of funds pursuant to both this Code
 283 section and Code Section 48-14-1."

284 **SECTION 2.**

285 The Georgia Outdoor Stewardship Trust Fund established by this chapter shall be a successor
 286 to the former Georgia Land Conservation Trust Fund and the Georgia Land Conservation
 287 Revolving Loan Fund. On July 1, 2019, all funds in the Georgia Land Conservation Trust
 288 Fund and the Georgia Land Conservation Revolving Loan Fund shall be transferred into the
 289 Georgia Outdoor Stewardship Trust Fund.

290 **SECTION 3.**

291 This Act shall become effective on July 1, 2019, only if an amendment to the Constitution
 292 authorizing the General Assembly to provide by law for allocation of up to 80 percent of the
 293 revenue derived from the state sales and use tax collected by establishments classified under
 294 the 2007 North American Industry Classification Code 451110, sporting goods stores, to a
 295 trust fund to be used for the protection of conservation land is ratified by the voters at the
 296 November, 2018, state-wide general election. If such an amendment is not so ratified, then
 297 this Act shall not become effective and shall stand repealed on January 1, 2019.

298 **SECTION 4.**

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