

2004 SESSION OF THE GEORGIA GENERAL ASSEMBLY

Final Legislative Report

Association County Commissioners of Georgia
April 20, 2004

This is the final status on all bills of county interest that appeared during the 2004 legislative session. In this final issue, we report on all bills that passed indicating their effective dates. In addition, since we just completed the second year of the two-year session, reported bills that were introduced in 2004 or carried over from 2003 and did not pass are listed in the “Failed Legislation” table on page 9. During the 2004 session, more than 600 bills and resolutions had a potential impact on county government. Bills in this report are arranged by policy area starting with bills and resolutions that passed, followed by a table of bills and resolutions which failed and appropriations highlights.

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ECONOMIC DEVELOPMENT & TRANSPORTATION

[Staff: Althea Fulton]

HB 1063 Amend Provisions for Motorized Carts (Rep. Lynn Westmoreland)

This legislation modifies the definition for motorized cart to include a motor vehicle with an unladen weight of 1,300 pounds or less and one designed to carry more than two persons. The bill also provides that local governing authorities shall establish the conditions under which a person may operate motorized carts on designated streets or portions thereof under its regulation and control, including the conditions under which a person may operate motorized carts without a driver’s license. This legislation also provides that motorized carts may cross streets and highways that are a part of a county road system or municipal street system only at crossings or intersections designated for that purpose by the county or city governing authority with jurisdiction over the system.

Status: Effective upon signature of the Governor

HB 1087 License Fees and Restricted Plates for Certain Vehicles (Rep. Jay Roberts)

The annual license fee for operating a truck-tractor hauling certain materials including fertilizer and milk cannot cost more than \$220, and this legislation adds crops as one of the materials. Crops are defined as fruits and products of all annual or perennial plants, trees, and shrubs including plants, trees, shrubs, and other agricultural products that are produced for sale. Additionally, a truck-tractor hauling crops shall be issued a restricted license plate with the fee computed in accordance with current law.

Status: Effective July 1, 2004

HB 1254 Cause of Action for Elimination of Railroad Crossings (Rep. Mickey Channell)

This bill provides that a railroad does not have a duty to file a petition to eliminate a railroad grade crossing. The bill further provides that the failure of the railroad to file such a petition does not create a cause of action against the railroad for injuries or damages associated with the use or existence of such crossing. Additionally, any decisions made by the Georgia Department of Transportation (GDOT) or any county or city governing authority regarding any petition to close a crossing

does not create a cause of action against these entities by a person for injuries or damages arising from the existence or use of such crossing.

Status: Effective July 1, 2004

SB 444 Joint Development Authorities (Sen. Brian Kemp)

This legislation allows counties to simultaneously be a member of more than one joint development authority. The bill also clarifies that a business located in a county that belongs to more than one joint authority is not entitled to any extra income tax credit beyond the additional \$500 per new position, which comes from being a member of the first joint authority.

Status: Effective upon signature of the Governor

SB 489 Operation of Buses and Motorcoaches on Roadways (Sen. Jeff Mullis)

This legislation exempts buses and motorcoaches from the definition of the term 'truck' which initially included any vehicle equipped with more than six wheels. The bill also establishes guidelines for operating buses and motorcoaches on multilane highways. For example, on roadways with three or more lanes of traffic moving in the same direction, buses and motorcoaches are restricted to using the two most right-hand lanes except when preparing for a left turn or moving to or from an HOV lane. Additionally, on roadways with two lanes of traffic in the same direction, a bus or motorcoach is prohibited from traveling in the left-hand lane, except when it is passing another vehicle or preparing for a left turn. For interstate highways with four or more lanes of traffic moving in same direction, GDOT may designate with proper signage the specific lanes that either prohibit or allow buses or motorcoaches. The bill also authorizes the Georgia Department of Transportation to work with the State Road and Tollway Authority (SRTA) to implement high occupancy toll (HOT) lanes where appropriate in qualifying HOV lanes. A 'HOT' lane is a designated lane, which allows single occupancy vehicles to gain access to HOV lanes by paying a toll set by the SRTA. This system of HOT lanes, which will use value pricing, and lane management, is intended to reduce congestion and improve the efficiency of the state's highway system.

Status: Effective upon signature of the Governor

SB 525 Removal of Vehicles in Traffic Accidents from Public Roads (Sen. Liane Levetan)

When a traffic accident occurs on any public road and there are no serious injuries or death, the drivers of the cars involved in the accident or any other occupant with a valid driver's license are required to remove the vehicles from the roadway to the shoulder, emergency lane or median. The definition of a public road includes any highway, road, street, avenue, toll road, tollway, drive, detour or other way open to the public. The bill also provides that any violation of this code section is punishable as a misdemeanor.

Status: Effective July 1, 2004

SB 553 Exempt Design-Build Contracts from Limitations on GDOT's Contracting Powers (Sen. Tommie Williams)

Currently, GDOT is prohibited from negotiating any contract for the construction or maintenance of a public road involving the expenditure of \$50,000 or more except under certain conditions. This bill would add another category of exemptions that include design-build contracts. The term design-build refers to a method of contracting under which GDOT contracts with another party to both design and build the structures, facilities and other items specified in a contract. The bill also establishes procedures that GDOT may follow when administering design-build contracts and provides that the Department must receive at least three letters of interest in order to proceed with a request for proposal. The Department is limited to contracting for no more than \$100 million per fiscal year for design-build programs. GDOT must provide a report on each project awarded using the design-build contracting method to the chair of the House and Senate Transportation committees, the Governor, the Lieutenant Governor and the Speaker of the House.

Status: Effective July 1, 2004

SR 575 GDOT to Study High-Occupancy Toll Lanes (Sen. Casey Cagle)

The Senate requests that the Georgia Department of Transportation study the feasibility of implementing high-occupancy toll lanes (HOT) along highways in the metro Atlanta Area and high-occupancy vehicle (HOV) and HOT lanes along the Georgia 400 corridor.

Status: Passed

GENERAL COUNTY GOVERNMENT

[Staff: Jim Grubiak]

HB 666/HB 1559/SB 592 Sheriffs Not Subject to the Service Delivery Strategies Act (Rep. Hugh Floyd/Sen Dan Lee)

HB 666 was amended on the floor of the Senate to include the provisions of HB 1559 and SB 592. As amended, HB 666 makes it clear that the operations of the sheriff, clerk of court, probate judge and tax commissioner are not to be included in deliberations between county commissioners and municipal officials in negotiating county service delivery strategies. This bill is viewed as clarifying existing law which most observers agree was never intended to address services provided by county officers given that these officials are carrying out state functions at the county level and their operations are not subject to direction or management by the board of commissioners. More importantly, the bill resolves one of the ongoing flashpoints in SDS negotiations where cities hire consultants to "prove" that unincorporated citizens should pay the cost of the sheriff's patrol. The underlying provisions of HB 666 raise the threshold for requiring annual audits from the current annual budget level of \$175,000 to an annual budget level of \$300,000. Local governments falling under the threshold are allowed to conduct audits once every two years instead of every year.

Status: Effective upon signature of the Governor

HB 709 Annexation/Land Use Procedures (Rep. Richard Royal)

In addition to the provisions of HB 709 dealing with SPLOST and the sewer sales tax for Atlanta (see page 6), the bill includes provisions which establish a uniform procedure that counties may employ to challenge land use decisions related to annexation or to negotiate a means to mitigate the negative impacts of annexation on land use and service delivery. The provisions are as follows:

- The dispute resolution process can be utilized by a county when it objects to a change in zoning or land use at the time a property is annexed into a city or within one year after the property has been annexed.
- The entire dispute resolution process is designed to take no more than 150 days or roughly 5 months. It includes the following steps each of which must take place within a maximum period of time:
 - The city must give notice to the county within 7 days of the filing of an application for the initial zoning of property upon annexation or for the rezoning of property within one year of annexation.
 - Upon receiving the notice from the city, the county has 7 days to give notice to the city that it intends to raise an objection and the basis for the objection.
 - After giving notice of its intent to object, the county has 10 days to document in writing the nature of the objection including any increased service delivery or infrastructure costs.
 - The city and county then have 21 days to develop mitigating measures to address the county's objections. The county may agree to waive the objections, or the county and city may agree on mitigating measures. In the alternative, the city may agree to deny or abandon annexation of the property under review.
 - If a resolution is not reached, either the county or the city may, within 7 days following the 21-day staff review period, insist that a mediator be appointed. The party insisting on mediation pays two-thirds of the cost of mediation. The mediator has up to 28 days to resolve the county's objections and arrive at an agreement between the county and city.
 - If mediation does not result in an agreement, the county may request review of its objections by a citizen review panel within 7 days following the conclusion of the 28-day mediation period. The panel will be appointed to consider the objections and possible ways to mitigate the county's concerns. The panel is to consist of one resident of the city appointed by the city, one resident of the county appointed by the county, and a non-resident of the county who is a land use planning professional appointed mutually.
 - The mediator engaged in the dispute is required to appear before the panel or provide a written presentation to the panel to brief the panel on the county's objections and any mitigating proposals that were considered during the mediation. The panel shall, during a 21-day review period, meet at least one time. Meetings of the panel are subject to the state open meetings law.

- The review panel's charge is to recommend approval or denial of the zoning or rezoning, recommend mitigating conditions to the rezoning, or, where appropriate, recommend approval or denial of the annexation.
- Any decision rendered by the citizen review panel, however, is not binding on the city.
- Any zoning or rezoning decision that has been objected to cannot take effect until at least 28 days after the completion of the dispute resolution process.
- The dispute resolution process established by HB 709 supplants the dispute resolution procedures established under the Service Delivery Strategies Act. The procedures are minimum procedures. The parties can agree to more stringent procedures.
- Existing annexation dispute resolution procedures which have an annexation appeals board where the county and city agree to be bound by the recommendation of the annexation appeals board are not superceded by HB 709.
- When property zoned and used for commercial purposes is annexed into a municipality that has an independent school system, the annexation is not effective *for purposes of changing the school taxes* until December 31 of the year following the year the requirements for annexation are met.
- A municipality must notify the county when the municipality is attempting to annex property by a local Act of the General Assembly.

Status: Effective July 1, 2004

HB 1358 Public Records: Redact Information Identifying Minors (Rep. Charles Martin)

This bill creates an exemption to the state open records law by requiring that custodians of records of athletic or recreational programs made available through a public agency must redact information identifying a child or children 12 years of age or under by name, address, telephone number, or emergency contact when responding to open records requests.

Status: Effective upon signature of the Governor

HB 1450 Judicial Emergency Act of 2004 (Rep. Tom Bordeaux)

This bill provides for the operation of the court systems should a natural or man-made emergency be declared by the Governor or by an authorized judicial official. Authorized judicial officials include the Chief Justice of the Georgia Supreme Court, the Chief Judge of the Court of Appeals, or a chief judge of superior court judicial circuit. Upon the declaration of an emergency, court proceedings may be transferred to or held in designated facilities other than the courthouse or other facilities where such proceedings take place when there is no emergency. Authorized judicial officials are also authorized to suspend, toll, extend or otherwise grant relief from deadlines or other time schedules imposed by law, rules, regulations or court orders. The bill also provides an appeal process for persons whose rights or interests may be adversely affected by an order declaring a judicial emergency.

Status: Effective upon signature of the Governor

SPECIAL SESSION

There are two bills that are of special interest to counties that did not pass during the 2004 session. However, since there is a real possibility of a special session in early March, it is possible that one or both of the bills described below will be included in the call. If there is a special session, county commissioners will be called upon to lobby their legislators on these two important issues.

Indigent Defense: Funding

(Rep. Curtis Jenkins)

HB 869 was supposed to be the vehicle for generating revenues to finance the state's obligations under the new statewide public defender system. While the bill passed both the House and the Senate, the conference committee members appointed to work out differences were unable to come to an agreement. As a consequence, the bill failed, primarily due to differences of opinion as to the role of the Governor in preparing and proposing a State Public Defenders Council's annual budget. From the standpoint of county commissioners, and despite the efforts of commissioners, neither the House nor the Senate versions of the bill included any help to commissioners in defraying county expenses under the new public defender system. ACCG had proposed a civil filing fee to assist in funding the local cost of providing indigent defense services in state, magistrate, probate and recorders courts for that purpose to no avail. The special session will provide a second opportunity for commissioners to lobby their legislators and ask for revenue assistance.

Ethics in Government / Whistleblower Protection

(Sen. Preston Smith)

SB 517 would have addressed a variety of aspects of ethics and ethical behavior in government service and lobbying public officials. However, the bill also included a whistleblower provision that would provide protection to an employee who reports or threatens to report what he or she believes to be an action of a state, county, city, school board, or regional public agency that violates the law. An employee would be able to file a lawsuit against the public agency if he or she is fired, suspended, demoted or not hired because of what he or she believes to be the person's whistle blowing activity. ACCG is concerned that this legislation will likely stimulate unnecessary litigation throughout the state since the perception of retaliation would be sufficient to initiate a lawsuit against a public agency even if the person was fired for job performance reasons.

HB 1579 Subsequent Injury Trust Fund (Rep. Mary Margaret Oliver)

This bill will dissolve the Subsequent Injury Trust Fund effective January 1, 2008 following the completion of an actuarial study to assess obligations of the Fund as it ceases operations.

Status: Effective July 1, 2004

HB 1598 Building and Construction Permits: Applications and Fee Payments by Mail and Electronically (Rep. Ron Dodson)

This bill provides that every county and city that requires a permit for the installation, replacement or improvement of heating, ventilation, air conditioning, plumbing, or electrical equipment would be required to provide a method by which an applicant for a permit could obtain and pay for a permit by mail or through electronic means including by fax. E-mail and websites could also be used at the discretion of the county or city. Nothing in this bill, however, requires any county or city to accept plans or specifications by mail or electronic means.

Status: Effective January 1, 2005

SB 511 Agriculture Related Distribution and Support Facilities Not a Nuisance (Sen. John Bulloch)

This bill amends existing law related to agriculture, by declaring that no "agricultural support facility" could be considered a nuisance as a result of changed conditions in the vicinity of such facilities. An agricultural support facility is defined as any food processing plant or forest products processing plant together with all related activities including trucking operations. The term, however, expressly excludes

rendering plants. The bill also expands the definition of "agricultural operation" to include the planting, growing, harvesting of timber and trees. This bill is aimed at protecting pre-existing agricultural and agricultural support uses from complaints by new residential neighbors that find the agricultural uses disagreeable as urban growth reaches such facilities.

Status: Effective July 1, 2004

HEALTH & HUMAN SERVICES

[Staff: Suzanne Nieman]

HB 502 Compensation for Juvenile Court Judges (Rep. Tom Bordeaux)

This bill provides for salary adjustments for juvenile court judges. Currently the salary for juvenile court judges is set at \$85,000 per year and is designated as state funding. The legislation will adjust the salary for juvenile court judges in the same manner as salaries are adjusted for other court officers in the judicial circuits.

Status: Effective January 1, 2005

HB 653 Prohibit Possession of Cigarette by Minors (Rep. Chip Rogers)

This legislation makes it unlawful for any minor to purchase or possess any cigarettes or tobacco related objects for personal use. The law does not apply to possession of cigarettes or tobacco related objects by a minor when a parent or guardian of the minor gives the cigarettes or tobacco related objects to the minor at home and the parent/guardian is present.

Status: Effective July 1, 2004

HB 1347 Child Welfare Agencies Employment Applicants (Rep. Judy Manning)

This legislation authorizes licensed and registered child-care learning centers, child-placing agencies, day-care center, group day-care homes, family day-care homes and child-caring institutions to obtain additional background criminal records checks from the Georgia Crime Information Center (GCIC) for potential employees and foster parents. To further protect children child welfare agencies shall post the phone number and website of the U. S. Consumer Product Safety Commission in a location visible to parents and visitors so that they may obtain recall notices on unsafe child and infant products.

Status: Effective July 1, 2004

HB 1568 Community Services Boards (Rep. Billy Mitchell)

This legislation prohibits any mental health, developmentally disabled, or addictive diseases community service board to employ any person who is receiving a retirement benefit from the Employees' Retirement System of Georgia. Any person employed as of July 1, 2004 by a community service board may continue their employment.

Status: Effective July 1, 2004

HR 1307 Home and Community Based Services for Developmentally Disabled Persons (Rep. Judy Manning)

This resolution urges and requests the Georgia Department of Human Resources (DHR) and Department of Community Health (DCH) to provide members of the General Assembly with recommendations to support a multiyear funding commitment to unlock the waiting list for home and community based services for people with developmental disabilities and physical disabilities. The plan requested by the legislature should address both the short and long-term planning lists that exist in DHR and DCH.

Status: Passed

HR 1474 House Trauma Network Study Committee (Rep. Jimmy Skipper)

This House Study Committee is charged with undertaking a comprehensive study of Georgia's trauma care system. Georgians are much more likely to die from trauma than anywhere else in the United States, and if Georgia deaths were reduced to the national average, 624 lives would be saved each year. The lack of funding for trauma care is a major obstacle in getting more hospitals to participate as designated trauma centers. Three years ago there were 19 designated trauma centers in Georgia; today there are 14 trauma hospitals that incurred approximately \$100 million in uncompensated care costs in 2002.

Status: Effective upon appointment of members

SB 604 Emergency medical technicians noncompulsory insurance (Sen. Don Thomas)

This legislation relates to insuring and indemnifying any person employed full time by the state or any political subdivision of the state as a firefighter, paramedic, emergency medical technician, law enforcement officer or correctional officer who runs a high risk of occupational exposure to hepatitis, HIV, meningococcal meningitis (meningitis) or tuberculosis (TB) and who is not employed elsewhere in a similar capacity. Any person who suffers a condition or impairment of health that is caused by hepatitis, HIV, meningitis, or TB, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty unless the contrary is shown by competent evidence. An emergency rescue or public safety worker may be required by his or her employer to undergo the immunization or prophylaxis for the prevention of a communicable disease, failure or refusal to undergo such immunization or prophylaxis disqualifies the worker from disability benefits.

In order to be entitled to the presumption provided by this bill an emergency rescue or public safety worker must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived there from, which tests fail to indicate the presence of infection. An emergency rescue or public safety worker on or after December 31, 2004, may be required to undergo a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis, HIV, or tuberculosis.

Status: Effective July 1, 2004

SB 608 HMOs: Provide for Use of National Standards for Quality Certification (Sen. David Shafer)

This legislation brings health maintenance organization (HMO) standards up to date with the current national standards HMO's follow. The Commissioner of Insurance shall within 90 days issue or deny a certificate of authority to the applicant. The applicant must demonstrate the willingness and potential ability to assure that health care services will be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of services.

Status: Effective upon signature by the Governor

SR 822 Study Committee on Aging and Developmental Disabilities (Sen. Sam Zamarripa)

This resolution creates the Senate Study Committee on Aging and Development Disabilities. The committee is charged with examining current barriers in the existing system that prevent transition through the stages of life without disruption of services, support and funding for aging persons and persons with developmental disability. The initiative is called "Aging for All"

Status: Effective upon appointment of members

NATURAL RESOURCES AND ENVIRONMENT

[Staff: Glenn Dowling]

HB 237 Statewide Comprehensive Water Management Planning (Rep. Bob Hanner)

This legislation directs EPD to cooperate and coordinate with the Water Resources Council, as well as any state, local, regional or any federal agency deemed appropriate to develop a draft Comprehensive Statewide Water Management Plan. The plan is to be submitted to the Council by July 1, 2007. The intent is to support a structured, yet flexible, approach to regional water planning while providing guidance and incentives for regional and local water planning efforts. The compromise bill provides a tortuous approval process whereby, following approval of the plan by the Council, the Plan will go to the General Assembly for an up or down vote no later than January 2008. If the General Assembly disapproves, the Council will have until the mid-point (first 20 days) of the session to revise it. Should the Council fail to revise the plan, the General Assembly will have until the end of the session to create its own plan. If the General Assembly does not so, the most recent version of the Plan submitted by the Council before the 20th day will go into effect. ACCG supports full and adequate funding to EPD and the Council in order to fulfill their mission in drafting, approving and providing to the General Assembly a plan. The State budget for FY 2005 which was adopted by the House and Senate includes \$300,000 for EPD to develop a "business plan" to begin the process. EPD's latest estimate is that it will take as much as \$25 to \$30 million over the three year planning period to develop the plan.

Status: Effective upon signature of the Governor

HB 1083 Landfill Siting Restrictions (Rep. Robert Ray)

Permits for new municipal solid waste disposal facilities (landfills) will not be issued if the proposed facility is within one mile of a private recreational camp that has been in operation for people under 18 years of age for 25 years or more.

Status: Effective upon signature of the Governor

SB 460 Stream Buffer Variance (Sen. Casey Cagle)

This legislation requires the EPD to revise and expand the stream buffer variance process. By December 31, 2004, new rules shall include additional circumstances the Director of EPD will consider when granting stream buffer variances. Those circumstances are: when land disturbing activity within stream buffers requires a US Army Corps of Engineers 404 permit while providing an approved mitigation plan; where the landowner can show that water quality will be maintained or improved downstream; or, where a land disturbance activity is on an impaired stream segment 303(d) list. In such cases, the landowner must provide a satisfactory plan to the Director showing the project will result in maintained or improved water quality and will have no adverse impact on the listed pollutant of concern.

Status: Effective July 1, 2004

SB 568 Illegal Dumping of Grease Enforcement Tools (Sen. Don Balfour)

This legislation provides the State EPD, or any local government wishing to participate, enforcement tools to establish a manifest system to track and provide for the proper disposal of commercial grease. The illegal dumping of grease prematurely ages sewer systems, causes costly backup damages to property, inhibits the proper operation of wastewater treatment facilities, increases repair and maintenance costs and requires additional public investment. According to the EPA, 50-70% of sewage overflows are caused by the illegal dumping of grease into public sanitary and stormwater sewer systems. This bill gives the state and local governments the ability to permit haulers, cite violators, and to collect fines and fees in order to assure fats, oils and grease will be disposed of properly with an authorized processor or handling facility.

Status: Effective July 1, 2004

SR 989 Senate Study Committee on Excavation Safety (Sen. Seabaugh)

In response to ACCG opposition to HB 1352, which would have made counties subject to a \$10,000 fine for violations under the "Call before you dig" law, SR 989 was created to study the issues surrounding Georgia's current "dig law". Issues such as the burdensome locate request system, the feasibility of local governments being 100% compliant with current law, contractor bonding requirements, locate fees, right of way occupancy fees, public safety reimbursements for utility accidents, locate technology availability/affordability, ownership and liability of sewer laterals, potential fine exclusion of dangerous utilities (natural gas and electricity), training, directional boring licensure and unlocatable utilities will be items potentially addressed by the study committee and its' advisory committee. The study committee will be made up of five Senators while the advisory committee will be made up of representatives from counties, cities, water or sewer utilities, the Public Service Commission (PSC), the Utilities Protection Center (UPC), excavators, contractors, developers, several named utilities and other parties deemed appropriate by the Chairman of the Study Committee. The Committee is to make its recommendations and suggestions for proposed legislation before it stands abolished on December 31, 2004.

Status: Effective upon appointment of members

PUBLIC SAFETY

[Staff: Clint Mueller]

HB 239 Increased Earned Time Allowances for Inmates (Rep. John Lunsford)

This legislation authorizes sheriffs and wardens to award four days credit for each day an inmate does work on an authorized work detail. These credits do not apply to an offender sentenced for a second DUI, a misdemeanor of a high and aggravated nature, or a crime of family violence. This legislation should give local officials another tool to help alleviate jail overcrowding.

Status: Effective July 1, 2004

HB 1161 Sentencing Options (Rep. Alan Powell)

This legislation creates a one year pilot program in Bibb, Floyd, Clayton and Tift County to allow their judges to sentence offenders to probation with options for the Department of Corrections to administratively impose new sanctions if the offender technically violates his or her probation. Giving the Department of Corrections this authority will help reduce the number of technical violators housed in county jails waiting for a hearing before the sentencing judge.

Status: Effective July 1, 2004

HB 1248 Extend Start-up Collection Time for Regional 911 Centers (Rep. Alan Powell)

This legislation allows counties participating in a regional 911 system to extend their start-up collections of 911 fees from 18 months up to 36 months prior to implementing the service. This will allow regional 911 start-ups to accumulate more revenues for implementation and provide them with a longer period of time for service implementation.

Status: Effective July 1, 2004

SB 243 Unified Incident Command (Sen. Jeff Mullis)

This legislation authorizes the Georgia Emergency Management Agency (GEMA) to establish a unified incident command system. All local public safety and emergency response organizations must establish the new system in their community by October 1, 2004, or they will not be eligible for state reimbursement for any response or recovery related expenses.

Status: Effective July 1, 2004

SB 297 Fleeing or Attempting to Elude a Police Officer (Sen. Mitch Seabaugh)

This legislation makes fleeing or attempting to elude a police officer a felony offense.

Status: Effective July 1, 2004

REVENUE & FINANCE

[Staff: Clint Mueller]

HB 709 County Special Purpose Local Option Sales Tax (Rep. Richard Royal)

This legislation is a major rewrite of the SPLOST law. This bill also creates a new annexation dispute resolution process. A detailed summary of the new annexation provisions can be found in the General County Government section of this report. The following is a summary of the SPLOST changes:

- County commissioners retain exclusive authority to call or not to call a SPLOST referendum. Furthermore, the county, and not the cities, are authorized to initiate discussions on the call for a SPLOST and the inclusion of municipal projects in the proposal.
- There is no municipal veto of SPLOST proposals put forth by the county. However, cities may be entitled to a share of the SPLOST proceeds under specified circumstances.
- There are two ways for a county to develop a package of projects for their SPLOST proposal. The first is by entering into an intergovernmental agreement between the county and the cities representing 50% or more of the

municipal population. The second method applies where the county and its cities are unable to reach an agreement and relies, in part, on a distribution to cities and the counties based on population. Both methods are described below.

- Under the intergovernmental agreement method, where the county and city or cities representing 50% or more of the municipal population enter into an intergovernmental agreement, the SPLOST can be called for up to six years and the tax can be collected for the full period of time even if more than the estimated amount is collected.
 - The intergovernmental agreement must contain a list of the projects to be funded, the estimated cost of each project, a procedure and schedule for distributing the cities' share of the SPLOST, and record keeping and auditing procedures.
 - Where the county and cities enter into an intergovernmental agreement, there is no limit on the type of capital projects funded. Capital outlay is broadly defined to include equipment.
- If an intergovernmental agreement is not reached, the SPLOST proceeds are to be distributed to the county and the cities in the following manner:
 - The county may expend all or part of the SPLOST proceeds on certain specified countywide projects known as "level one countywide projects". They include: courthouses, administrative buildings, health department facilities, and jails or other correctional facilities. In addition, equipment for these facilities may be financed through SPLOST. Funding for these projects comes off the top of the SPLOST proceeds and city approval is not needed whether all or part of the proceeds are expended on the level one projects.
 - If no level one countywide projects are included in the referendum, a county can reserve up to 20% of the SPLOST revenues for level two countywide projects. The commissioners have full discretion to specify projects they deem to be level two countywide projects. As with level one countywide projects, funding for level two countywide projects comes off the top of the SPLOST proceeds.
 - Any SPLOST revenues that remain after level one or level two countywide projects are funded are to be distributed to the county and municipalities according to population. The county's share would be based on its unincorporated population.
 - Where there is no intergovernmental agreement, SPLOST cannot be collected beyond five years or the point at which the estimated revenues are collected, whichever occurs first. There are two exceptions to this rule:
 - 1) If a level one countywide project is included in the call that is estimated to require more than 24 months of estimated revenues, the SPLOST must be levied for a full six years.
 - 2) If a level one countywide project is included that is estimated to require less than 24 months of estimated revenues, the SPLOST cannot be levied for less than five years.

- Eligible uses of road, street and bridge money have been expanded to include patching, milling, and leveling as well as storm water improvements.
- General obligation bonds were added as a financing option for road, street and bridge projects.
- The county and any cities receiving SPLOST revenues must publish a report once a year in their local newspaper that shows the original estimated costs, amounts expended in prior years, the amounts expended in the current year and a statement of surplus funds for each capital project listed in the SPLOST referendum. For each project that is under funded or behind schedule, the local government must explain what corrective action it intends to implement.

Status: Effective July 1, 2004

HB 1103 Renewal Notification for Conservation Use Covenants (Rep. Richard Royal)

This legislation requires county tax assessors to send written notification to a landowner when the conservation use covenant on the land is about to expire. The notice must be sent at least 60 days prior to the expiration of the covenant.

Status: Effective July 1, 2004

HB 1107 Conservation Use Eligibility for Undeveloped River and Streamside Lands (Rep. Carl Rogers)

This legislation extends conservation use assessment to land adjacent to streams and rivers, which are prohibited by law or ordinance from being disturbed, and which serve as a buffer between a stream or river and land adjacent to it that could be developed.

Status: Effective January 1, 2005

HB 1184 Sales Tax Holiday (Rep. Ron Borders)

This bill authorizes another sales tax holiday in 2004. The tax exemptions will apply to the same items as last year (clothing, school supplies, and computers). The sales tax holiday will take place July 29th through August 1st. Local sales taxes are exempted along with the state sales tax.

Status: Effective upon the signature of the Governor

HB 1391 Tax Commissioner Training (Rep. Lynn Westmoreland)

This legislation clarifies the type of annual training required for tax commissioners and expands the number of organizations eligible to provide the training.

Status: Effective upon the signature of the Governor

HB 1409 Sales Tax Exemption on Ice Used in the Processing and Marketing of Poultry and Vegetables (Rep. Richard Royal)

Status: Effective July 1, 2004

HB 1415 Hotel/Motel Tax Performance Review Board (Rep. Mickey Channell)

This legislation creates a review board that will investigate complaints from taxpayers, local governments, innkeepers, or private sector nonprofit organizations about the misappropriation of hotel/motel tax revenues or infractions identified by the state auditor. Members of the review board will include 5 members appointed by the Department of

Community Affairs Commissioner, one of which is a county official, the remaining 6 members will be appointed by the Governor, Speaker of the House, President Pro Tempore of the Senate, the state auditor, the Department of Industry Trade and Tourism Commissioner, and the Department of Revenue Commissioner. Each member will serve a three to five year term. The review board will hear complaints up to June 1st of each year and will then review these complaints between September 1st and December 1st of the same year. If there is a finding of noncompliance with the hotel/motel tax law, the offending party will have 90 days to make the necessary remedial action. If remedial action is not taken, the Department of Revenue Commissioner can take appropriate action to enforce compliance, up to and including termination of the tax. The legislation also requires hotel/motel tax expenditure information to be reported on the DCA Local Government Finance Survey.

Status: Effective July 1, 2004

HB 1416 Wildlife Habitat Eligible for Conservation Use (Rep. Bob Lane)

This legislation extends conservation use assessment to land used for wildlife habitat that is more than 10 acres in size and has previously qualified and been enrolled in a conservation use covenant. The original bill extended conservation use assessment to all undeveloped property. The 10-acre requirement and previous enrollment in a conservation use covenant were added to limit the financial impact on the county tax digest.

Status: Effective July 1, 2004

HB 1437 National Streamlined Sales and Use Tax Agreement (Rep. Richard Royal)

One of the provisions in this legislation allows Georgia to participate in the national effort to streamline sales tax. This legislation does not change any sales tax laws in Georgia, but does give Georgia a seat at the table with other states that are trying to create national standards for sales tax collections with the hope that Congress will allow states to collect sales tax on sales made in Georgia by businesses that do not have a physical presence in Georgia. Without the ability to collect these remote sales taxes counties in Georgia are losing millions of dollars in revenue.

SB 393 Year Round Filing of Homestead Exemptions and Property Assessment Appeals and Extensions for Military Personnel (Sen. Eric Johnson)

The first provision in this legislation allows a member of the U.S. armed forces serving outside the continental United States to file applications for special assessment of property anytime within six months of returning to the continental United States. The second provision in this legislation authorizes homeowners to file for their homestead exemption anytime in the year in which the property becomes the person's primary residence. In exchange for this flexibility, the deadline for filing the homestead exemption in the year it is effective has been moved from June 1st to March 1st. The earlier deadline should help speed up digest preparation. The final provision in this legislation authorizes friends and family of military personnel

to file an assessment appeal on their behalf when they are away on duty.

Status: Homestead provision effective June 1, 2005; all other provisions effective upon the signature of the Governor

SB 453 Three Year Limitation on Tax Audits and Notice of Freeport Renewals (Rep. Keith Heard)

The first provision in this legislation requires the tax assessor's office to send a renewal notice by January 15th of each year to any business receiving a freeport exemption on personal property. The second provision of this legislation limits the assessment of personal property to three years except in situations where a false or fraudulent return has been filed or when the property owner has been notified of a pending audit.

Status: Effective July 1, 2004

SB 514 Issuance of Commercial Paper by Local Governments (Sen. Casey Cagle)

This legislation authorizes local governments to issue commercial paper notes. This financing tool will give local governments more options for short-term borrowing.

Status: Effective upon the signature of the Governor

APPROPRIATIONS

FY 2005: July 1, 2004 – June 30, 2005

HB 1181 - APPROPRIATIONS

FY 2005: July 1, 2004 – June 30, 2005

(Reductions and decreases in state funding or program eliminated in the FY2005 budget are in parenthesis)

Department of Community Affairs

- (\$254,000) eliminated funding for Regional Economic Development Grants
- (\$212,400) reduce Regional Economic Business Assistance (REBA) grants
- \$47,123,333 reallocate One Georgia funding (tobacco funds) to initiate a new Local Development Fund and Innovation Centers program

Department of Community Health

- (\$14,810,408) implement a supplemental drug rebate program for all drug classes; include coverage without restriction of at least one drug from every therapeutic chemical class as approved by the FDA
- (\$2,000,000) implement the federally required Estate Recovery Program to offset the cost of nursing home care. This will cut out medically needy Medicaid for nursing home residents, 2,000 will lose care.
- (\$2,800,000) require non-custodial parents with access to health insurance to provide coverage for

their children currently insured by Medicaid and PeachCare

- (\$11,005,833) implements a sliding scale and cap PeachCare premiums at \$35 for one child and \$70 for two or more (now \$10 and \$20). Allow the Governor and DCH to decide on policies that would delay eligibility to the month after application, lock children out of PeachCare for late premiums, and require 6-month waits after dropping other insurance
- Optional services in Medicaid in the Adult Dental Program **will continue** (total funds: \$14,282,911)
- Coverage for optional services for adults in the Medicaid Orthotics and Prosthetics Program **will continue** (total funds: \$3,519,356)
- (\$12,805,784) cut off Medicaid eligibility for pregnant women at 200% of the federal poverty level (currently 235%), 9,000 lose coverage
- \$368,411,761 to increase state funding for Medicaid Benefits to fund the projected costs incurred claims for prior years and the projected cash need for FY 2005 claims (Total funds: \$926,123,079)
- \$26,516,402 to increase state funding for PeachCare Benefits to fund the projected cost of FY 2005 claims

Department of Corrections

- (\$5,580,363) delay the opening of the Georgia Diagnostic and Classification Prison Super Max unit until FY 2006 and eliminate one time start up cost
- (\$7,988,731) reduce counseling program and the education program by 25% at state prisons
- \$3,000,000 funding for inmate health costs associated with the Medical College of Georgia contract
- (\$3,197,594) charge counties and cities full cost for inmate work details and construction details
- \$8,000,000 authorize the lease of 1500 beds at Stewart County
- \$5,500,000 for the operation of the Pelham and Emanuel facilities

Department of Human Resources

- (\$4,640,211) reduce grant-in-aid to county health departments by 7%
- (\$450,000) reduce funding for regional tertiary care centers
- (\$375,000) reduce funding in Epidemiology by 7.2%
- (\$104,000) reduce the number of Emergency Medical Services regions from 10 to 8 (same as GEMA districts)
- (\$734,448) reduce administrative costs, technical assistance and county grants to community collaboratives in the Family Connection program
- \$21,100,812 to implement a Level of Care (LOC) Placement System that pays 6 levels of uniform

rates for therapeutic residential treatment based on the needs of the child beginning February 2004

- \$1,161,154 (Olmstead decision) – transition 20 consumers with developmental disabilities from hospitals to community services
- \$4,600,000 adjust increased cost of the provision of services in the Community Care Services program and provide funds for an additional 460 slots in the program
- \$318,035 funding for 10 Unlock the Waiting List developmental disability slots

Department of Industry, Trade and Tourism

- (\$165,225) reduction in marketing funds for economic development activities
- \$1,000,000 funding for marketing within Tourism Marketing and Promotion

Judicial Branch – State Public Defenders Council

- \$22,090,000 to fund the implementation of the Georgia Defender Standard Council, including Indigent Defense Councils base funding transfer of \$9,539,145 (**NOTE: funding was provided by revenues from H.B. 869 which did not pass during the 2004 session**)

Department of Juvenile Justice

- (\$5,701,735) adjust funding at Augusta Youth Development Campus to reflect a reduction capacity from 410 beds to 100 beds
- (\$2,128,816) reduce operating expenses and eliminate 53 positions due to the closure of the Athens Regional Youth Detention Center
- (\$1,038,753) eliminate 17 teaching positions that are not necessary to maintain staffing requirements at various RYDCs
- \$5,507,863 start-up and operational funds for the new Muscogee RYDC/YDC complex scheduled to become operational January 2005
- \$1,868,800 annualize the operational cost for Crisp YDC
- \$2,703,539 annualize funds to convert to a Level of Care Placement System based on the needs of the child

Department of Labor

- (\$801,634) eliminate direct State funding for Jobs for Georgia Graduates in the Workforce Development Program

Department of Motor Vehicle Safety

- (\$1,377,316) eliminate the Travel Teams program and add \$348,000 to allow for driver license testing for the 11 counties over 30 miles from a full service facility
- (\$272,882) eliminate State funding for the motorcycle safety program and raise the student fee from \$250 to \$300

- Authorize the department to eliminate renewal only sites and reassign \$3,510,043 and 46 positions back to the full service facilities

Department of Natural Resources

- (\$10,000,000) eliminate funding for the Community Greenspace program
- \$300,000 funding for a comprehensive water management plan
- \$3,595,077 amount for Hazardous Waste Trust Fund
- Solid Waste Trust Fund is eliminated from the FY2005 DNR budget
- \$800,000 continuation funding for Land and Water Conservation Grants

Department of Pardons and Parole

- \$782,100 provide funding to fill 15 vacant parole officer positions to increase public safety
- \$492,150 for 12 months of service for the Global Positioning System Electronic Monitoring (GPS-EM)

Department of Public Safety

- (\$1,612,902) eliminate midnight shifts at approximately 50% of the patrol posts
- (\$147,988) eliminate the Basic Subsistence Reimbursement program
- \$483,000 funding to replace 23 motor vehicles in excess of 135,000 miles
- \$1,032,694 funding for a trooper school of 25 student to start October 1, 2004

Board of Regents

- (\$2,615,150) reduce funding for Cooperative Extension Service
- (\$1,844,906) reduce funding for Georgia Public Library Service and Public Libraries
- \$100,000 funding for the ICAPP Health Initiative

Department of Technical and Adult Education

- (\$714,877) reduce funding for Quick Start program by 6%. Quick Start provides employee-training services to new and expanding industries

Department of Transportation

- \$38,000,000 for LARP. This funding level will meet less than one-third of the county and city needs identified by GDOT. County governments desperately need any increase in funds that are available to help them maintain and improve deteriorating local roads.
- \$100,000,000 in 20 year bonds for the Governor's Road Improvement Program (GRIP) to continue construction of four-lane roadways across the state and to complete other transportation projects. \$8,700,000 allocated for debt services.
- State Fund Construction Project Categories: Off System (which funds county/city contracts) -

- \$6,117,447; On System - \$5,213,014 and Most Needed (which typically funds local projects) - \$0
- \$1,700,000 in 5 year bonds for the Airport Aid Program to continue aviation improvements at the state's public airports. \$384,200 allocated for debt services.
- \$1,000,000 operational funds for the Atlanta-Lovejoy rail line
- (\$171,691) reduction in mass transit grants

General Obligation Debt Sinking Fund

- Authorize \$20,000,000 in 20 year bonds for the following Georgia Environmental Facilities Authority projects: \$12,000,000 for low interest loans for local water and sewer construction projects; \$4,500,000 to match funds for clean water construction loan program; \$3,500,000 to match funds for drinking water construction loan program - \$1,740,000 allocated for debt service

Georgia Bureau of Investigation

- \$509,792 add 10 scientific positions to the Centralized Scientific Services program to alleviate the Crime Lab backlog
- \$400,000 operating funds for the Cleveland Regional Crime Lab

**BILLS AND RESOLUTIONS
FAILED TO PASS**

<u>Bill</u>	<u>Title</u>	<u>Author</u>
Economic Development & Transportation		
HB 1136	Georgia Transportation Infrastructure Bank to Provide Loans for Local Roads and Transit Projects	John Lunsford
HB 1257	Allocation of State/Federal Transportation Funds Among Congressional Districts	Don Wix
HB 1295	Transportation Funds for Interstate Projects and Local Roads	Paul Smith
HB 1465	Amend Definition of Public Roads	Michele Henson
SB 425	Transportation Funds for Interstate Projects and Local Roads	Ginger Collins
SB 450	Amend Definition of Public Roads	Steve Thompson
SB 516	Establish Grant Program for Streetcar Development	Sam Zamarripa
SB 585	Local Governments to Pay Certain Maintenance Costs for Railroad Crossings	Jeff Mullis
General County Government		
HB 550	Utility Franchise Fees as SDS Tax Equity Offset	Don Parsons
HB 618	Create Magistrates' Retirement Fund	DuBose Porter
HB 833	Open Records: Requests in Writing	Barry Fleming
HB 869	Indigent Defense: Funding	Curtis Jenkins
HB 1060	Limitation on Water Utility Rates	Ron Stephens
HB 1092	County Employees Cannot be Prohibited from Running for Elected Office	Victor Hill
HB 1211	Annexation: County Approval Needed Where County Provides Urban Services	Glenn Richardson
HB 1215	Direct Appeal in Zoning Cases	Glenn Richardson
HB 1280	Coroners: Compensation Increase/Mandated Benefits	Mike Boggs
HB 1304	Timely Payments for Goods and Services	Carl Rogers
HB 1372	Salary Increase for Probate Judges Supervising Elections	Don Wix
HB 1392	Filing Fee to Fund Technology Improvements in Judiciary	Mike Snow
HB 1561/1562	Victims Assistance Funds: Funding of Non-profits	Gail Buckner

HB 1743	Permanent License Plate for Local Government Vehicles	Sharon Beasley-Teague
SB 83	Fee to Fund Law Libraries for Prosecutors, Public Defenders and Indigent Defense Services	Terrell Starr
SB 273	Georgia Public-Private Partnership Act	Dan Moody
SB 361	Regulatory Reform Act	Ross Tolleson
SB 402/ HB 868	Compensation to Property Owners for Inverse Condemnation by State and Local Governments	Mitch Seabaugh/ Lynn Westmoreland
SB 490	Revisions to the Service Delivery Strategies Act	Renee Unterman
SB 500	Electronic Voting Systems: Require Paper Trail	Tom Price
SB 517	Ethics in government/Whistleblower Protection	Preston Smith
SB 523	Patriot Jury Act/Guidelines for Exemption of Jury Duty/Postponements	Eric Johnson
SB 605	Creation of Incorporated Villages	Mitch Seabaugh
Health and Human Service		
HB 277	Enact Public Service Employee's Occupation Safety & Health	Karla Drenner
HB 357	Coroner Investigation of Suspicious Death of Persons Receiving Compensated Care	Henry Howard
HB 701	Independence Plus Act	Pat Gardner
HB 1129	Create Community Service Board Overview Commission	Billy Mitchell
HB 1138	Smoking in Motor Vehicle with Child in Car Seat	Paul Smith
HB 1202	Medical Treatment for County Correctional Facility Inmates	John Lunsford
HB 1443	Funding for Reimbursing Hospitals for Nonresident Indigent Patients	Pat Gardner
HB 1522	Health Share Volunteers in Medicine Act	Mickey Channell
HB 1670	Smoking in Public Places	David Lucas
HB 1720	Reimbursement Rates for Ambulance Services	Lynn Westmoreland
HR 1420	Trust Fund for Trauma Care	Buddy Childers
SB 285	Coroner Investigation of Suspicious Death of Persons Receiving Compensated Care	Bill Hamrick
SB 447	Medicaid, prohibit prior authorization/restrictions on mental health drugs	Rene Kemp
SB 468	Funding for Reimbursing Hospitals for Nonresident Indigent Patients	Liane Levetan
SB 507	Georgia Smokefree Air Act of 2004	Don Thomas
Natural Resources and Environment		
HB 487	Prevent Grease Dumping	Stan Watson
HB 495	Required Testing of Landfill Sites	Teresa Greene-Johnson
HB 496	Municipal Landfill Distance Requirements	Teresa Greene-Johnson
HB 511	Private Waste Water Treatment Facilities	Jan Jones
HB 591	Counties to Provide for Septic Tank Waste Disposal	Karla Drenner
HB 882	Solid Waste Facilities Permit Modifications	Karla Drenner
HB 1060	Local Government Water Utility Rate Control	Ron Stephens
HB 1205	Public Water and Sewer Service to Satellite Areas	Ann Purcell
HB 1284	Requiring Solid Waste Plans to Comply with Local Ordinances	Sistie Hudson
HB 1345	Riverbasin Protection Act-Interbasin Restrictions	Alan Powell
HB 1352	PSC-UPC Dig Law Removal of Fine Exclusion	Don Wix
HB 1408	Manifest System to Prevent Grease Dumping	Stan Watson
HB 1615	Interbasin/Intrabasin Transfer Restrictions	Tom McCall
HB 1697	Surface Water Pollution Permit Fees	Debbie Buckner
HR 1419	House Septage Disposal Study	Bill Heath
HR 1425	Solid and Hazardous Response Trust Fund	Hinson Mosley
HR 1762	Groundwater Permits in Coastal Georgia	Ann Purcell

SB 246	State Compensation for Taking of Local Water Reservoirs	Brian Kemp
SB 483	Additional 25' Stream Buffers	Brian Kemp
SB 530	Nonpoint Source Water Pollution Control Project Grants to Non Profits	Robert Lamutt
SB 571	Variance Changes to Stream Buffers	Don Cheeks
SB 614	Flint River Drought Protection Act; prohibit moratorium	Michael Meyer Von Bremen
SR 997	Senate Septage Disposal Study Committee	Michael Meyer Von Bremen
Public Safety		
HB 1614	Annual Increases In County Jail Per Diem	Gerald Greene
HB 1518	Saving Lives Through Enhanced 9-1-1 and Public Safety Communications	Don Wix
HB 1567	New Reporting and Regulatory Requirements for County Probation Services	Gerald Greene
Revenue and Finance		
HB 834	Vehicle Registration and Taxes Paid to the County Where Vehicle is Primarily Used	Joe Wilkinson
HB 1344	Timber Land Eligible for Conservation	Paul Smith
HB 1502	Sales Tax Exemption on Natural Gas Used in Electric Generation	Mike Snow
HB 1506	Setoff Debts Owed to Local Governments Against State Income Tax Returns	Jeanette Jamieson
HB 1540	Taxpayer Bill of Rights Rollback Calculation and Digest Submission	Kathy Ashe
HB 1605	Seven Year Statute of Limitation on Property Tax Refunds	Tom Bordeaux
HR 1336	Limitation of Millage Rates and Valuation Increases	Kathy Ashe
SR 311	Statewide Property Tax Assessment Freeze	Eric Johnson