



Jill C. Fike
Director

Brian Scott Johnson
Deputy Director

Senate Research Office
204 Paul D. Coverdell Legislative Office Building
18 Capitol Square
Atlanta, Georgia 30334

Telephone
404.656.0015

Fax
404.657.0929

2009 UPCOMING SESSION ISSUES

This document is a report of selected issues that are likely to be addressed during the 2009 Session of the Georgia General Assembly, and is solely intended to provide a general overview. If more information on a particular area of interest is needed, please contact the Senate Research Office.

The following issues are found on the corresponding page numbers:

- **AGRICULTURE AND CONSUMER AFFAIRS** Page 1
- **BANKING AND FINANCIAL INSTITUTIONS** Page 1
- **ECONOMIC DEVELOPMENT** Page 1
- **EDUCATION AND YOUTH** Page 2
- **FINANCE** Page 2
- **HEALTH AND HUMAN SERVICES** Page 4
- **HIGHER EDUCATION** Page 4
- **INSURANCE AND LABOR** Page 5
- **JUDICIARY** Page 6
- **NATURAL RESOURCES AND THE ENVIRONMENT** Page 7
- **PUBLIC SAFETY** Page 8
- **REGULATED INDUSTRIES AND UTILITIES** Page 8
- **RETIREMENT** Page 9
- **SCIENCE AND TECHNOLOGY** Page 9
- **SPECIAL JUDICIARY** Page 10
- **STATE AND LOCAL GOVERNMENTAL OPERATIONS** Page 10
- **STATE INSTITUTIONS AND PROPERTY** Page 11
- **TRANSPORTATION** Page 11

AGRICULTURE AND CONSUMER AFFAIRS

Organic Food and Raw Milk Regulation

During the 2009 Session, legislation may be introduced requiring stricter labeling and distribution standards for raw milk. Raw milk, which is unpasteurized milk, cannot legally be sold for human consumption in the U.S. The USDA and the CDC condemn drinking of raw milk by humans because of the possibility of serious illness. According to testimony presented to a House study committee created to review organic farming and the sale and consumption of raw milk, it is being sold at farm sites and farmers markets to consumers who reportedly are using it for human consumption.

Organic farming is a growing industry in Georgia with 1,700 acres in organic production. The number of organic farms more than doubled in the past ten years. Organic agriculture uses techniques such as crop rotations, the recycling of farm-produced organic materials, cover crops, and non-chemical methods for the control of pests, diseases, and weeds. Synthetic fertilizers, pesticides, herbicides, growth regulators, and livestock feed additives are eliminated in organic farming. Although standards for organic food are federal, all growers, livestock producers, processors, handlers, and distributors in Georgia who use "organic" in their labeling must be registered with the Georgia Department of Agriculture.

BANKING

Licensing of Mortgage Brokers and Loan Originators

Under current law, mortgage brokers must register with the Georgia Department of Banking. However, there is no law requiring the state registration of individual lenders or loan originators.

In 2009, legislation will be introduced to overhaul the regulatory scheme for the mortgage industry in Georgia. This would be part of a response to the foreclosure crisis, which was in part caused by poor loan underwriting practices. Poor loan underwriting practices resulted in too many unstable and risky loans, such as adjustable rate mortgages (ARM's) that ended up in default. Legislation could require various educational requirements for all entities dealing with mortgages, including national banks, small mortgage brokers, and credit unions. The educational requirements would have a significant focus on good underwriting practices. The goal of the legislation would be to cut down on the number of "bad actors" in the industry and promote industry stability.

Foreclosure Rescue Scam

Senate Bill 527, introduced in the 2008 Legislative Session addressed fraud by entities advertising rescue from foreclosure for homeowners. Specifically, the bill was intended to prevent homeowners who are facing foreclosure from becoming victims of persons who purport to help save their home, while actually taking title to the home and the homeowner's equity.

Although, SB 527 did not pass during the 2008 Session there continues to be interest in this problem by groups such as the Governor's Office of Consumer Affairs and the Atlanta Legal Aid Society's Foreclosure Prevention Program. In June, the Senate Banking Committee received testimony about the actions of foreclosure rescue companies and the need for laws going beyond Georgia's Fair Business Practices Act.

ECONOMIC DEVELOPMENT

The Future of Manufacturing in Georgia

During the 2008 Legislative Session, the Senate passed Senate Resolution 1097 creating the Senate Study Committee on the Future of Manufacturing in Georgia. During the interim, the Committee, which is composed of Senators Chip Rogers and Tim Golden as co-chairs, Chip Pearson, Jeff Mullis, Doug Stoner and Ed Tarver, began a series of joint meetings with the House Study Committee on the Future of Manufacturing in Georgia. The joint Committees have heard from several of Georgia's manufacturing representatives regarding their concerns for the manufacturing industry.

Georgia is the 10th largest state in the nation for manufacturing output. However, just as the nation's share of non-agricultural manufacturing employment has been trending downward for more than the past decade, Georgia's has too. Specifically, Georgia's has fallen from around 17.8 percent to 10.2 percent over the past 18 years while the nation's has fallen from 16.3 percent to around 10.0 percent.

In 2006, the manufacturing sector in Georgia accounted for 12.9 percent of Georgia's Gross Domestic Product. Significantly, the manufacturing industry pays higher than average compensation by roughly 10 percent compared to other non-manufacturing employment. It provides wealth to Georgia's communities and importantly, the economies of Georgia's smaller, rural areas.¹

Recognizing and supporting Georgia's manufacturing industry is crucial to our economy. Adopting policies that would help attract and retain manufacturing businesses will be a major focus for the members of the study committees in the upcoming session.

EDUCATION AND YOUTH

School Choice

The issue of school choice has found its way to the forefront of educational policy decisions in many states across the nation, including Georgia. In the past two years, the Georgia General Assembly has passed legislation that created a charter school commission, provided scholarships to special needs students, and offered state income tax credits to individuals and couples who donate money to non-profit organizations that provide scholarships to public students to attend private schools.

Legislation may be introduced in the 2009 Legislative Session providing for a statewide voucher program available to all parents that would allow tax dollars spent on education to follow the student to the school of their choice.

Teacher Certification and Retention

In the 2008 Session, House Resolution 1103 was passed, which created a Joint Study Committee on Teacher Training and Certification. The purpose of the Committee was to study the needs of Georgia's 100,000 teachers, in order to encourage teacher retention and guarantee that Georgia will remain in the forefront of education nationwide.

Each year the state needs an additional 15,000 teachers, and yet, only 5000 graduate annually. The annual turnover rate is 7 percent for teachers leaving the educational system. The Committee heard testimony which stressed the need for a greater increase in math and science teachers. Recommendations during testimony included policies that would improve teacher retention, increase science teacher education programs, create adjunct faculty for subjects that have a high need for teachers, and attract new math and science teachers with differentiated pay.

Other recommendations included: investing in high quality early childhood education for all 4 year olds and low income 3 year olds; recruiting teachers from the top third of college graduates; providing stronger support to disadvantaged students; and creating high performance schools and school districts, by increasing rewards to teachers and districts.

FINANCE

Property Tax Reform

Property tax reform will again be debated during the 2009 Legislative Session. In 2008, the Senate passed Senate Resolution 686 and House Resolution 1246 which called for a Constitutional Amendment placing a cap on property tax assessments. The measures did not pass the House. Both bills would have required that the assessed value of residential real property and nonresidential property for all ad valorem tax purposes would not have increased from the value established for 2008; moreover, improvements to property would have been appraised at fair market value, which would have been added to the owner's valuation amount. Property sold or transferred would have been appraised at current fair market value. The Senate also passed Senate Resolution 796 which changed the uniformity requirement as it applies to residential and nonresidential real property. The assessed value of residential and nonresidential real property would not have increased from a pre-determined set valuation. The valuation may be increased in any taxable year by up to 2 percent for residential real property,

¹ *2008 Why Manufacturing Matters to Georgia: A Discussion Paper*. Michael Curley, Ph.D., Professor Emeritus of Economics, Kennesaw State University, Roger Tutterow, Ph.D., Professor of Economics, Mercer University, Mark Yanochik, Ph.D., Associate Professor of Economics, Georgia Southern University.

and up to 3 percent for nonresidential real property. The assessment and appeal process may also be ripe for review due to increasing assessments despite decreasing home values.

Trauma Trust Fund

Also previously debated and passed by the Senate was House Bill 1158 which created the Georgia Trauma Trust Fund. A charge of \$10 would have been levied on all registered vehicles for the purpose of funding trauma services across Georgia. This issue may again be debated during the 2009 Legislative Session.

Teleworking Tax Credit

Traffic congestion continues to be a major issue for metropolitan Atlanta. Georgia currently authorizes an income tax credit for employer teleworking expenses (\$1200 per employee); it further limits the aggregate amount of credits allowed to \$2 million. The existing credit is expected to sunset in 2009. In 2008, House Bill 1244 passed the Senate with specific teleworking tax credit provisions; the credit would have been extended through 2012 and would have increased the aggregate amount of the credit to \$2.5 million. Legislation may again be introduced to extend this credit.

Tax Allocation Districts

On Election Day 2008, Georgia voters approved a Constitutional Amendment authorizing usage of property tax revenue for redevelopment purposes. The General Assembly passed Resolution 996 in direct response to the Georgia Supreme Court decision early in 2008 that held that school property tax revenue could not be used for tax allocation districts. This decision essentially undercut adequate funding to properly effectuate tax allocation districts purposes. Local school boards will retain final approval to certify or renew a tax allocation district. The General Assembly may revisit the existing statutory language and adjust it to clearly reflect the intention of the Constitutional Amendment.

Existing tax allocation districts benefiting from approval of the amendment are Atlantic Station, Westside Atlanta, and the Beltline project in Fulton County, the US 78 corridor in Gwinnett County, Marietta City Center and Smyrna Redevelopment in Cobb County, Avondale Mall/Columbia Drive in DeKalb County, Downtown Macon Redevelopment in Bibb County, and Rome City in Floyd County.

Local Sales Tax Collection

The Senate is currently studying the local sales collection process. Currently, the Georgia Department of Revenue (GDOR) collects all local sales tax revenue; the funds are then disbursed back to the respective local government entity. The study committee is looking into whether the local governments should have the ability to collect the revenue in-house or by an independent third party. All Georgia local governments rely upon ad valorem property tax as a primary revenue source; however, sales tax collections are authorized for local government use through Local Option Sales (LOST), Special Purpose Local Option Sales (SPLOST), and Education Local Option Sales Taxes (ELOST). The GDOR receives these collections from retail vending locations and sends a check back to the respective county which then drafts a check to the various municipalities in that county per the controlling inter-governmental agreement.² Thirty two states operate in the same vein as Georgia—the state department of revenue collects both state and local portions of the sales tax. The GDOR requires online sales tax reporting for certain high-profit businesses; however, paper filing is still acceptable for most small business vendors.³ The online filing operation was made available in June 2006. The GDOR reports that the state has 74 sales tax auditors who completed over 1,180 audits in Fiscal Year 2008 attributing to over \$71 million in payments.

The GDOR assesses a statutory 1 percent collection fee to local governments for revenue collection. It is noted that most departments of revenue charge and keep accrued interest. This fee annually garners approximately \$40 million for the GDOR.

States that currently provide local governments the option to collect and audit their own sales/use taxes are: Alabama, Arizona, Louisiana, Colorado, and Alaska. Local autonomy in revenue collection generally has turned on issues relating to auditing, timeliness of payments, and use of information. Legislation may be introduced to authorized local governments to contract with a private third party to collect local sales tax revenue.

² See O.C.G.A. §§ 8-8-104 and 48-8-89.

³ In Georgia, 22,000 taxpayers are required to file online.

HEALTH AND HUMAN SERVICES

Permanent Funding for Trauma Care

Georgia still needs a coordinated trauma care system with permanent, sustainable funding. The traumatic death rate in our state is 20 percent higher than the national average, as millions of Georgians live and work at least two hours away from an adequate trauma care center. Because there are only 15 designated trauma centers dispersed among 10 counties in Georgia, large areas of the state are not adequately served. Furthermore, several counties still do not have a 911 emergency call system. According to the Georgia Department of Transportation, Georgians are four times more likely to die in a car accident in a rural area than in an urban area, due to poor access to trauma care. However, if Georgia simply achieved the national average, over 700 lives would be saved each year.

A consistent source of funding is necessary to cover existing costs and make improvements to the current trauma system, as well as to help reduce the number of trauma-related deaths by coordinating care between providers and increasing access to care in rural parts of the state. Over the past several years, the General Assembly has considered ways to attain funding for trauma care hospitals and EMS providers. In 2007, the Legislature passed Senate Bill 60, which created the Georgia Trauma Care Network Commission to study the infrastructure of our trauma system and to consider possible funding mechanisms. During the 2008 Legislative Session, a measure to permanently fund the trauma care network through a \$10 car tag fee was introduced but did not pass; however, Governor Perdue did set aside a one-time \$58.9 million appropriation for our trauma system in Fiscal Year 2008, which the Commission recently distributed to trauma care providers.

Despite these efforts, Georgia still needs a permanent funding stream for trauma services. It is likely that the General Assembly will confront this issue again in the 2009 Legislative Session.

Restructuring the Department of Human Resources

In February 2008, Governor Perdue issued an Executive Order creating the Health and Human Services Task Force. The Task Force was charged with developing and recommending a plan for restructuring the Department of Human Resources (DHR) to provide for a more efficient and effective delivery of services.

The Task Force released its plan in July of 2008. The plan recommends merging the Department of Community Health with the public health and health regulation programs of DHR to create a new Department of Health. The remaining social services would fall under a new Department of Human Services, which will include Developmental Disabilities, Aging, the Division of Family and Children Services (DFCS), and Child Support. Finally, there will be a separate Department of Behavioral Health that will combine the mental health and addictive diseases program currently under DHR. The proposal calls for legislation to be introduced during the 2009 Legislative Session, with transition to the new agencies occurring on July 1, 2009.

Children's Mental Health Services

Georgia's mental health delivery system is fragmented and outdated, particularly with regard to services for children. During the 2008 Legislative Session, both the Senate and the House created Study Committees to examine children's mental health services. Members of both Committees have joined together to address issues and shortfalls in the current delivery system for children with mental illnesses and behavioral issues, including access to services, the delivery of services in our state, sources of funding, prevention, school screening programs, and recidivism rates.

The Committee has held four meetings, with a final meeting scheduled in November. It is likely that the Committee will recommend legislation to the General Assembly in 2009 that aims to strengthen services for children with mental health problems.

HIGHER EDUCATION

Georgia Lottery Corporation

In 2008, due to a shortfall in Georgia's budget and a commitment to properly manage the public's money, the General Assembly initiated legislation that would have provided clearer oversight of the Georgia Lottery Corporation. The Corporation facilitates the process that provides HOPE scholarship funds to the Georgia Student Finance Authority.

Although it did not pass, the bill would have given the Georgia Lottery Corporation board powers over the Chief Executive Officer (CEO) of the lottery, allowing them to approve, disapprove, amend or modify bonuses or incentives recommended by the CEO and it requires a detailed account of all bonuses and incentive packages proposed by the Corporation to be included in the budget.

The Legislative Oversight Committee would consist of the twelve chairpersons from six Senate committees and six House committees, along with two members of the Senate appointed by the Lieutenant Governor and two members of the House of Representatives appointed by the Speaker of the House. The chairpersons of the Senate Economic Development Committee and the House Committee on Regulated Industries would serve as co-chairpersons of the oversight committee.

The Georgia Lottery Corporation would provide the oversight committee with a complete report of the Corporation's salaries and incentive packages for each year prior to the beginning of the Corporation's fiscal year.

This legislation may be reintroduced in the 2009 Legislative Session.

INSURANCE AND LABOR

The Insurance Premium Tax

Traditionally, insurance companies are taxed on the premiums they write. Georgia's insurance premium tax rate is currently one of the highest in the nation and over twice the national average. The revenue from the premium tax has proven to be a great windfall for the state and local governments in Georgia. In 2004 alone, the premium tax generated over \$300 million for the state and over \$335 million for local governments. All state revenue collected from the premium tax is deposited in the state's general fund.

Tax Rate and Structure

The structure of the insurance premium tax in Georgia is quite simple, and since 1955, there has been no change in the premium tax rate or in the tax base. The tax base is the gross direct premiums received on policies issued in Georgia. Georgia's tax rate is 2.25 percent. The state also collects an additional tax on premiums and disburses it to local governments. These local taxes are an additional 1.0 percent of the life, accident and sickness, and HMO premiums, and 2.5 percent of property and casualty premiums. Therefore, the true tax rate on property and casualty premiums is 4.75 percent while life, accident and sickness, and HMO premiums are taxed at 3.25 percent.

Retaliatory Tax

Authorized under O.C.G.A. §33-3-26, the retaliatory tax essentially penalizes a company domiciled in a state with a premium tax rate that is higher than that of Georgia. Likewise, a Georgia company writing in a state with a premium tax rate lower than Georgia's will have to pay the computed difference to that particular state. For example, if a Tennessee property and casualty company writes a policy in Georgia, it pays Georgia's 4.75 percent tax. If a Georgia company sells a policy in Tennessee, which has 2.50 percent rate, Tennessee collects its 2.50 percent plus the 2.25 percent difference from the Georgia-based company. In the simplest of terms, a Georgia-based insurer writing policies in any state with a lower insurance premium tax than Georgia's will always have to pay Georgia's 4.75 percent rate.

Possible Action

The reduction or eventual elimination of the state's portion of the premium tax would significantly reduce a Georgia-based insurer's burden of paying the retaliatory tax when writing in other states. A reduced tax would also encourage new insurers to move to Georgia while preventing Georgia-domiciled companies from re-locating to other states. Finally, a reduced tax would benefit the consumer by lowering insurance premiums.

Property and Casualty Rate Regulation

Enacted in 2008, Senate Bill 276 will deregulate a majority of private passenger automobile insurance rates beginning on January 1, 2009. Supporters of this bill argued that deregulation will lead to increased competition which will inevitably lead to lower auto insurance rates. Critics, however, fear that this bill will allow insurers to raise rates with impunity. Because of this concern, legislation will likely be introduced in 2009 to reverse Senate Bill 276 and preserve the Insurance Commissioner's authority over the rate-making process.

Prescription Drugs and Prior Approval

Traditionally, insurers use a number of utilization controls on the use of services to control costs and to ensure that only medically necessary services are reimbursed. Consequently, an insurer may apply a cost-saving process on prescription drugs, such as: a requirement for prior approval, exclusion of specific drugs, limits on the number of brand name drugs that can be prescribed for a patient, or a requirement that drugs be on a "preferred" list in order to be covered. Prior approval simply means that the insurer requires the prescribing provider to seek prior approval from the insurer for an otherwise covered outpatient drug. The process, however, is an inconvenience to physicians, pharmacists, insurers, and patients.

Based on testimony, the 2007 and 2008 Senate Study Committee on Prior Approvals and Prescription Drugs determined that prior approval is ultimately approved between 87 and 99 percent of the time. This only serves to reinforce the notion that prior approval, in most instances, is not only unnecessary, but it is also an inconvenience, burden, and cost to providers, pharmacists, insurers, and patients. The Committee believes that the best drug is most often selected by the provider and not by the insurer or PBM. Legislation was introduced in 2008 that restricts the practice of prior approval in Georgia. Although this legislation was not voted out of the Insurance Committee in 2008, the author, Senator Jack Murphy, intends to introduce similar legislation in 2009.

Unemployment Insurance Program

Unemployment insurance (UI) pays temporary cash benefits to workers who have lost jobs through no fault of their own. The UI system is administered as a federal-state partnership. To finance the program, the State levies and collects payroll taxes from employers. The State undertakes most UI administrative activities related to both paying benefits and collecting from employers the payroll taxes that support the program. The funds collected are managed in a trust fund administered by the federal government.

For 2008, a majority of Georgia's 200,000 employers will see their unemployment insurance taxes slashed by a combined \$100 million. Georgia now has the second most solvent unemployment insurance trust fund and the lowest unemployment insurance tax rates in the Southeast. However, history has shown that the trust fund's solvency is fleeting and can become very unstable during periods of high unemployment. Some of the specific issues the legislature may address in 2008 concerning the unemployment insurance program include the following:

- The UI system operates counter-cyclically, paying out benefits during recessionary times and collecting revenue during recovery times. Is there a better alternative to this pattern which would provide for a more stable trust fund balance in times of recession and recovery periods?
- How many months' worth of benefit payments should Georgia's UI trust fund maintain to provide an adequate reserve of money available to be paid as benefits?
- What is the ratio of Georgia's UI trust fund balance to Georgia's annual total wages in covered employment that would fund an adequate reserve?
- Is Georgia's UI experience rating system and benefit financing model sound and sustainable? Should the system and the model be amended or revamped?

JUDICIARY

Sexual Offenders

Due to the Georgia Supreme Court decision handed down on October 27, 2008, Santos v. State, in which part of the sexual offender law was declared unconstitutional, there will likely be legislation introduced on this issue. The opinion specifically held that although homeless offenders are not exempt from the statute, the registration requirements as applied to the homeless are unconstitutionally vague. But the decision made clear that it does not exempt homeless offenders from reporting other information required by the statute, nor does it exempt those who are able to provide an address, such as a shelter. The ruling is unlikely to affect registration requirements for non-homeless registered sex offenders. It cites five states (California, Illinois, Kentucky, Minnesota and Washington) where sexual offender registration laws have special provisions for the homeless, requiring transient offenders with no address to report their whereabouts to law enforcement officials each month.

The current sexual offender law in Georgia was passed last year as Senate Bill 1. Code Section 42-1-12(a) defines "address" as: "the street or route address of the sexual offender's residence. For purposes of this Code section, the term does not mean a post office box, and homeless does not constitute an address."

MethCheck Database

Last year, Senator Butler introduced Senate Bill 457, a bill that would have authorized the use of a real-time electronic monitoring system, called "MethCheck," to be used by pharmacies statewide to track the purchase of products containing ephedrine, pseudo-ephedrine, and phenylpropanolamine. These ingredients are essential in the production of the illegal drug methamphetamine. Georgia does not currently have a centralized electronic database to record purchases of products used to make methamphetamine, thus allowing criminals to buy large quantities by making purchases at more than one pharmacy over a short period of time.

MethCheck is capable of calculating both state and federal drug purchase limitations, matching similar identification information, and alerting pharmacies of potential illegal transactions. MethCheck would have been maintained by the Georgia Bureau of Investigation, and all pharmacies would have been required to keep a written or electronic log of transactions involving the sale of the above drugs, and enter all such information into the MethCheck system. Pharmacies are already the only retailers authorized to sell and distribute those drugs, which are found in products such as Sudafed. Purchasers would have been asked to show identification, in addition to signing a log or receipt documenting the transaction. Violation of this statute would have been a misdemeanor offense.

Although Senate Bill 457 did not pass, Senator Butler is currently chairing a study committee that is looking into the MethCheck issue. When the study committee concludes and makes its findings, there may be new legislation introduced to create a statewide electronic monitoring system.

Right of Way Violation

Senate Bill 438 was introduced last year to create a second time offense penalty for causing serious injury due to a right of way violation resulting in a collision with a motorcycle, pedestrian, bicyclist, or farmer hauling agricultural products. The definition of serious injury includes causing bodily harm to another by dismemberment, serious disfigurement, or severe brain damage.

A first offense is currently punishable by a fine of at least \$250. For a second or subsequent offense within 5 years as measured from the dates of previous arrests for which convictions or pleas were obtained to the date of the current arrest, a defendant would have received a fine of at least \$500, up to \$1,000, and imprisonment for 10 days to 12 months. In addition, the defendant's driver's license would have been suspended for 30 days upon conviction of a second offense, he/she would have had to pay a license restoration fee of \$50 to \$60, and complete an approved driver improvement program.

The existing penalty for a right of way violation has not proven effective in deterring subsequent offenses. A new version of this bill may be introduced in 2009 to enhance road safety.

NATURAL RESOURCES AND THE ENVIRONMENT

According to the Energy Information Administration, in 2007, the United States consumed 7.5 billion barrels of oil. World-wide demand for oil has driven up crude oil prices 60 percent in the last year.

The purchase of hybrid vehicles can help to reduce the demand on oil. The Energy Policy Act of 2005 allows consumer to receive a tax credit up to \$3,400 when purchasing new certified hybrid vehicles. However, this credit will end December 31, 2010. Furthermore, after a manufacturer sells 60,000 vehicles that fall under this credit, the credit is phased out until it no longer applies; currently, both Honda and Toyota have reached the 60,000 vehicle mark.

As the federal tax incentive phases out, legislation may be introduced in the 2009 Legislative Session which provides incentives for the purchase of hybrid vehicles to help individuals, businesses, and state government become more energy independent. Other states offer tax credits, sales tax exemptions, rebates, HOV lane exemptions, business energy tax credits, emission testing exemptions, and hybrid vehicle parking incentives.

PUBLIC SAFETY

Increased Traffic Fines – Funding Trauma Care System

Although it failed to clear the House of Representatives in 2008, legislation similar to Senate Bill 125 is expected to be introduced again in 2009 that would impose additional fines for specific traffic violations. All penalties collected under this legislation would be deposited in the state's general fund with the intent that the money be used to fund a trauma care system. The Department of Driver's Services (DDS) is directed to administer and collect penalties for the following traffic offenses:

- Driving at 85 miles per hour or more on any road or highway or 75 miles per hour or more on any two-lane road or highway will be classified as a 'super speeder,' and a fee of \$100.00 will be imposed.
- Any driver whose driver's license or driving privileges are suspended pursuant to Code Section 40-5-57(c)(1)(B), relating to habitually negligent or dangerous driver, or suspended for points pursuant to Code Section 40-5-57.1, relating to the suspension of licenses of persons under 21 for certain offenses and suspension of licenses of persons under age 18 for certain point accumulations, will be subject to a fee of \$100.00.
- Any driver whose driver's license or driving privileges are suspended for a conviction for any of the following traffic violations will be subject to a fee of \$300.00:
 - Racing;
 - Leaving the scene of an accident; or
 - Fleeing from or attempting to elude a police officer.
 - Driving a commercial vehicle with a blood alcohol concentration of 0.04 percent or greater;
 - DUI;
 - Feticide by vehicle;
 - Homicide by vehicle; or
 - Serious injury by vehicle.
- Any driver who has been declared a 'habitual violator' pursuant to Code Section 40-5-58 will be subject to a separate fee of \$300.00, in addition to any other imposed fines.
- Any driver who accumulates seven or more points under Code Section 40-5-57, relating to habitually negligent or dangerous drivers, will be subject to a \$100.00 fee. This fee will be assessed upon reaching the enumerated point level range. The fee will be reassessed if a driver's points are reduced, but the driver then reaches the enumerated point level range again.

REGULATED INDUSTRIES AND UTILITIES

Secondary Metals

Increasing theft of copper metal and wiring and other secondary metals continue to be an issue. Homeowners, developers, churches, businesses, and ballparks have all been victims to theft and vandalism due to the high value of copper. Senate Bill 203 was enacted in 2007; it was significant legislation increasing penalties on metal thieves. Specifically, criminalized actions regarding stolen regulated metals were expanded to include theft by taking, theft by conversion, and criminal damage to property; moreover, these criminal actions were included to be felonies only rather than misdemeanors. All motor vehicles, tools, and weapons used or intended for use to commit a crime are now subject to forfeiture unless the crime occurred via a common carrier or without consent of the owner.

Despite these efforts, precious copper metal thefts continue, although they appear to have waned with the downturn in the economy. There have been meetings among a coalition of stakeholders to further review the existing statutes and need for additional authority regarding the sale or purchase of scrap metals, increasing the burden on both the buyer and seller of such material. Many stakeholders seek more stringent enforcement of existing language as enacted by Senate Bill 203 while some prefer to increase liability on end-of-the-line users such as recyclers.

RETIREMENT

Cost of Living Adjustments for Retired State Employees

House Resolution 1271, which passed during the 2008 Session created a House Retirement System COLA Study Committee to study the needs, conditions, issues, and problems of a mandatory annual 3 percent COLA for retirees of the Employees Retirement System of Georgia and the Georgia Judiciary Retirement System.

Retired state employees are not guaranteed COLA under state law. However, many retirees became accustomed to receiving an annual COLA of 3 percent. COLA's are dictated by the Board of Trustees of the Employees Retirement System of Georgia based upon the amount of money available to distribute, which can be up to 3 percent under Georgia law. This year state retirees are receiving a 2.5 percent COLA, which will be done in 2 separate 1.25 percent adjustments. The Trustees when determining the possibility of COLA looks at the actuarial liability created by the distribution and well as the annual amount income of the fund. If a COLA distribution leaves too much unfunded liability the trustees breach their fiduciary duty and there is a danger that future retirees will not have adequate funds. These factors are directly tied to the financial markets. When the stock market is doing well, state retirement funds do well. Unfortunately, when the stock market slumps the possibility of unfunded liability of the state retirement fund requires action.

Some retirees have suggested that state government increase its contribution to the state retirement fund to place more money in the state budget in order to lessen the actuarial impact. The Trustees are concerned that mandatory COLA's could abolish their ability to preserve stability within funds and create unfunded liability.

Retired state employees believe that the retirement systems have a duty to address inflation and cost of living increases. The House Study Committee had three meeting this fall to look at the issues surrounding COLA and consider possible legislative solutions.

Divestment of State Retirement Funds from Companies Doing Business in Certain Countries

In 2008, Senate Bill 451 provided certain statutory prohibitions for the investments managed by our public retirement systems regarding investments in Iran's petroleum energy sector.

By October 1, 2008, the bill required all public funds to identify any company that has, with actual knowledge, on or after August 5, 1996, made an investment of \$20 million or more in Iran's petroleum sector which directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources. Such companies were placed on a list of "scrutinized companies," which will be updated annually by each public fund. Neither the retirement system nor any employee of the retirement system will be liable for a good faith omission in identifying a scrutinized company.

Additionally, this bill outlined mandatory procedures for public funds with direct holdings in any scrutinized company. These procedures include notifying companies of their status, encouraging companies to cease investment activities covered by this bill, and divesting securities in such companies under certain circumstances. SB 451 passed by a vote of 46-3. Similar legislation may be introduced this year to require divestment from companies doing business in Darfur (Republic of Sudan), the Syrian Arab Republic, and the Democratic People's Republic of Korea. Since it is deemed to have a fiscal impact, the legislation would be introduced during the 2009 Session, studied by actuaries as well as the Retirement Committees, and could be passed during the 2010 Session.

SCIENCE AND TECHNOLOGY

Public Legal Notices Website

Public notices placed by private and public parties are a regular feature in newspapers throughout Georgia. State law requires the publication of a legal advertisement in a variety of situations, from some adoption proceedings to foreclosure actions. Many, but not all, such ads must be placed in a designated legal organ of a county. Moreover, state entities might publish notices for upcoming meetings or other governmental action. According the Senate Budget and Evaluation Office, state agencies spent approximately \$500,000 in FY2007 on the publication of public notices or legal advertisements in Georgia.

In an effort to reduce these costs, Senate Bill 391 was introduced in 2008. This legislation would have required the Secretary of State to establish a searchable public notice website to be used by state agencies to publish legal notices that would otherwise have be published in a

newspaper. Additionally, the bill would have allowed the publication of notices on the website by non-governmental entities. Under SB 391, notices required to be placed in a county newspaper would have to be published in that manner, but otherwise the legal requirement to publish a notice would have been satisfied by publication on the website.

Proponents of this measure argued that legal notices often go unseen by their intended audience and that a website such as the one proposed would make legal notices more readily available to the public. Opponents of the bill, however, argued that requiring publication of ads in newspapers creates a valuable permanent record. Moreover, some in the newspaper industry have pointed to a current free website, www.georgiapublicnotice.com, that publishes all legal notices that have appeared in a Georgia newspaper since August 2007. Although Senate Bill 391 did not ultimately pass either chamber, the issue of internet publication of legal notices is likely to appear again in 2009.

SPECIAL JUDICIARY

Commercial Sexual Exploitation of Minors

Georgia has long been considered to be a hub for child prostitution and related sex crimes. Recent studies suggest that as many as 300 underage girls are commercially sexually exploited in the state each month. In response, the Commercial Sexual Exploitation of Minors Joint Study Commission (Commission) was established in 2008 to examine this problem and to consider possible legislative action. In many respects, Georgia already has strong laws for prosecuting cases of child sexual exploitation. Under the Child Sexual Commerce Prevention Act of 2001, the offenses of pimping, pandering, and keeping a place of prostitution are felonies when involving the prostitution of a person under 18 and are punishable by five to 20 years imprisonment and fines of \$2,500 to \$10,000. However, some advocates have argued that current Georgia law leaves room for ambiguity on how minors involved in prostitution should be treated. Although the age of consent in Georgia is 16, there is no minimum age for the crime of prostitution. Some advocates have argued that adding a minimum age to Georgia's prostitution and masturbation for hire statutes would make the law more consistent and would put Georgia in line with federal and international law, both of which regard underage prostitutes as victims entitled to protection and appropriate services. Another potential reform advocated by some is a revision of Georgia's child abuse reporting statute to better identify victims of commercial sexual exploitation. Additionally, many advocates argue that a more uniform approach is needed for handling victims. While some Georgia jurisdictions have developed policies on handling child prostitutes, a statewide protocol would help ensure that all such young people throughout the state would be treated as victims, not criminals, and would aid in matching them to the appropriate services.

In addition to considering legal reforms that might be needed, the Commission has been considering ways to increase treatment resources available to victims. Ideas being explored by the Commission include maximizing available federal funds and finding ways to generate revenue that can be used to expand services.

STATE AND LOCAL GOVERNMENT

State Services Provided to Local Governments

The State of Georgia is examining its budget closely this year. One aspect that will receive attention is the provision of services to local governments for which the State is not reimbursed. Some services are provided to counties and cities at no charge, and this could change in the current budget climate.

Special Tax Districts

The recent Constitutional Amendments have spurred interest in other local tax districts. Tax Allocation Districts were relatively popular before they were deemed unconstitutional. If they are reinstated this could pave the way for a variety of other special local tax districts. The benefit of such districts is that they increase local control of development and increase funding for it without requiring people outside the district to pay for it. While Infrastructure Development Districts did not pass in the recent election, other types of special taxation districts could be proposed.

STATE INSTITUTIONS AND PROPERTY

Cost of Housing Inmates

The Department of Corrections (DOC) will study closely the cost of housing various classifications of state inmates. The rising cost of medical care, as well as the various costs of managing facilities will all be examined. The department will also consider ways to reduce costs by housing inmates in private and local facilities. Further, the department is may examine the possibility of charging counties differently for services provided by inmates such as highway maintenance by state prisoners.

Georgia Correctional Industries

Expanding the scope of Georgia Correctional Industries (GCI), which conducts farming and manufacturing operations is also being considered by DOC. Currently, GCI is examining the balance between farming crops for sale and growing food for use in DOC facilities. Finding the right balance between foods that can be sold and foods that can be used to feed inmates could save the department money.

Probation Management

The DOC is also going will also be reexamining probation management solutions. Some programs may be discontinued or greatly reduced due to cost and the recidivism rates of the participants. The department will also look for new solutions such as computerized monitoring and filing to reduce the amount of paperwork, and ultimately the cost required for managing those in its care.

TRANSPORTATION

Transportation Funding

Transportation is a critical resource in our state. Since finding the necessary funds to maintain and improve the state's transportation systems and infrastructure is becoming increasingly difficult, new sources and methods of funding transportation projects is needed to allow the transportation systems to meet the needs of the population.

Senate Resolution 845, which failed to pass in the 2008 Legislative Session, proposed a Constitutional Amendment that would have authorized a one percent regional local options sales and use tax to fund transportation projects. However, House Bill 1035, the enabling legislation, did pass in the 2008 Legislative Session.

Legislation may be introduced in the 2009 Legislative Session providing for such a tax, or other methods and sources, to fund transportation projects on a regional level.

Appointment of State Transportation Board Members

Under Article IV, Section IV, Paragraph 1 of the Georgia Constitution, members of the State Transportation Board (Board) from each Congressional District are elected by a majority vote of the members of the House of Representatives and the Senate whose respective districts are embraced or partly embraced within such Congressional District meeting in caucus. The General Assembly is required to provide by law the procedure for the election of the members and for filling vacancies on the Board. Members serve terms of five years. Further, the Board selects the Commissioner of the Department of Transportation.

Other states, such as North Carolina and Texas, provide for the Governor to appoint their respective state transportation Board members. Texas also requires consent of the Senate. Legislation may be introduced amending the State Constitution to provide for the appointment of Georgia's Board members.

Teleworking

Teleworking offers significant transportation-related benefits including lower traffic congestion and less air pollution. See **FINANCE** for more information.