



The Capitol Report January 15th, 2006

Provided by The Georgia Railroad Association

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The General Assembly completed the fifth day of the 40 legislative-day session on Friday. The lawmakers will be in recess the week of January 16th while the House Appropriations Committee works on the state budget.

Eminent domain is hot button issue.

Numerous bills were introduced during the first week of the session to reform the way eminent domain is applied in the condemnation of private property. At a hearing on Tuesday, House Judiciary Chairman Wendell Willard said his committee will study the various bills and combine the best features into a single bill. The Administration is also working on legislation, which will likely be the chosen bill of the Judiciary Committee.

GRA has met with legislators and administration officials, and it appears at this point they want to pass a measure that would restrict or prohibit the use of eminent domain for "redevelopment," while leaving in place the traditional use of condemnation for acquiring property to provide for public infra-structure and for restoring "blighted" property. GRA's primary objective is to ensure that traditional eminent domain rights are preserved for railroads.

While almost everyone except the Georgia Municipal Association thinks private property should not be condemned just to give it to another private enterprise, some contend that there should be even greater restrictions on the use on eminent domain. Senator Jeff Chapman, from Brunswick, for instance, opposes the use of eminent domain to re-develop so-called "blighted" property. Senator Chapman points out that state and local governments have ample regulatory authority to address blighted property without resorting to condemnation.

Opportunity for Adverse Possession amendments?

GRA is working with legal counsel to develop language addressing the issue of adverse possession. The goal is to introduce a bill this session and at least begin hearings on the issue.

GRA has discussed the issue with Senator Jeff Chapman, who is emerging as a champion of private property rights in the legislature. Senator Chapman understands the problem that railroads currently face in losing portions of their rights of way simply because a neighboring landowner has used the property over a period of time. Once the eminent domain issue becomes more clear, the Senator may be willing to introduce a bill to repeal or restrict the use of adverse possession.

GRA continues to work on code clean-up.

Through the use of outside counsel, GRA has completed its review of rail-related Georgia and federal statutes, along with relevant cases and regulations promulgated by the FRA. Many existing Georgia statutes are preempted by federal rule, law or regulation. Language is being drafted to clean up code sections as they relate to railroads.

Rep. Barry Fleming has indicated that this language could be substituted into SB 285, which passed the Senate last year and is now in his railway subcommittee. SB 285 was introduced last year by Senator Chip Rogers at GRA's request to remove several antiquated railroad laws from the Georgia code.

Infrastructure finance bill still in committee.

HB 137 and HB 436 are carryover bills that would create new ways to provide for funding of infrastructure, including rail infrastructure, without increasing taxes. Introduced by Rep. John Lunsford, the bills would create the Georgia Environment and Infrastructure Financing Authority to provide "grants, loans, bonds, and other forms of financial and technical assistance" to local governments and the state for industrial development purposes.

According to the sponsor, HB 137 had no opposition, but HB 436 was introduced later to incorporate input from the Administration. Now, this latter version of the bill has drawn opposition from mortgage bankers and lawyers, and both bills continue to languish in the House Ways & Means Committee.

When the bills were introduced last year, there were nine other states with similar laws – now there are 27. GRA members interested in this legislation may wish to contact their Representatives, especially if they serve on Ways & Means.

Right to bear arms vs. private property rights.

Legislation introduced during the first week would give individuals the right to keep firearms in their automobiles even in privately owned parking lots. HB 998 by Rep. Tom Graves would essentially prohibit discharging or disciplining an employee who kept a gun in his vehicle on a company parking lot. The bill provides for civil actions by the employee for reinstatement, recovery of lost wages and benefits, and payment of legal fees.

Now in the House Public Safety Committee, HB 998 is similar to bills introduced in several other states.

Immigration is another hot button issue.

Polls show strong public support for stricter laws related to illegal immigrants, including laws to punish the employers who hire them. In this election year, look for a number of immigration reform bills, many with leadership support.

HB 961, introduced the first week by Rep. Brian Thomas, would require employers to complete and retain a "Georgia Employment Eligibility Form" for each employee hired after July 1, 2006. The form would be "substantially similar in content and requirements to the Federal Immigration and Naturalization Form I-9," and employers may use this Federal Employment Verification Form to satisfy the requirements of HB 961. Employers would also be required to complete and maintain the form on each individual hired as an independent contractor.

Failure to comply with the requirements of this bill would result in the loss of the employer's license or registration to do business in Georgia.

2006 Spring Conference

Don't forget to mark your calendar for the GRA 2006 spring conference at Lake Lanier Islands, May 31-June 2. Please see the website for more information:
www.georgiarailroad.org.