



The Capitol Report: February 4th, 2002
Provided by The Georgia Railroad Association
P.O. Box 440533
Kennesaw, GA 30160
770/424-2967
www.georgiarailroad.com

The pace is slow in the 2002 Georgia General Assembly, with fewer than 300 bills introduced in the first 10-days of the session. For railroads, however, there are three bills that could significantly affect future operations. Those bills are summarized below. Back issue

Grade crossing bill could move this week.

Rep. Mickey Channell's draft grade crossing bill hasn't even been introduced yet, but it is possible the measure could be filed early in the week and pass through the Rail Subcommittee on Wednesday. The bill would then be eligible for consideration in the full House Transportation Committee on Thursday.

Channell's bill would give local governments authority to dictate grade crossing maintenance and repair schedules. The sponsor emphasizes, however, that the regulatory mechanism in the bill would still be based on the "safe and convenient passage" language in Code Section 32-6-190. Theoretically, local governments would not be able to demand maintenance just to make a crossing smoother. The Department of Transportation would be the final arbiter over what constitutes "safe and convenient."

The Georgia Railroad Association is proposing several changes to the draft bill. The GRA proposals include:

- Delete the word "convenient" from 32-6-190 so that maintenance priority is clearly based on safety. "Convenient" is not defined in the code, and is a very subjective term.
- Provide for cost sharing of crossing maintenance, with the railroads responsible only for that portion between the ends of the crossties. This provision, patterned after the North Carolina law, would be more equitable than the current requirement that railroads pay for all maintenance from two feet outside the crossties.
- Change the 15-day response time to 30 days. Fifteen days is not an adequate response time, but the 30-day time frame in North Carolina apparently works well. Rep. Channell has already agreed to this change.
- Change current law relating to permitted crossings so that railroads are not required to pay for protective devices. Those devices are highway signs, and should be treated like similar devices at other crossings.
- Eliminate or reduce the \$1,000 per day fine for failure to comply.
- Use only safety criteria, not convenience, for determining which crossings should be closed.
- Clarify provisions in the draft relating to overpasses and underpasses to ensure that railroads are not burdened with unfair capital costs.

Adoption of these provisions would change a very negative bill into a positive bill, not only for railroads, but also for state transportation policy. Georgia DOT opposes the bill in its current form, and will likely oppose some of the changes proposed by GRA.

Rail amendments proposed for “Transportation Security Act.”

HB 1060 was originally intended as an airport security bill, but the sponsor has agreed to amendments that would protect railroad rights-of-way, trains, terminals, and other rail facilities. Introduced by Rep. Mike Barnes of Jonesboro, HB 1060 will be heard in the Aviation Subcommittee, and perhaps the full House Transportation Committee, in the coming week.

Included in the bill are felony penalties – up to 25 years in prison and a \$100,000 fine – for interfering with a “security measure” or disabling any safety device with the intent to commit a felony. The bill also provides criminal sanctions for tampering with cargo or freight.

Venue bill still in committee.

SB 342 remains in the Senate Finance and Public Utilities Committee. Introduced by Senators Seth Harp, Rene Kemp, and Michael Meyer Von Bremen, this bill would give plaintiffs the option of bringing civil actions against railroads and electric utilities in the location of their principal place of business as well as where the cause of action occurred or where the registered agent is located.

The bill is particularly troublesome for railroads because they do not come under state workers compensation statutes. Workplace injuries are handled in the judicial system, and would thus come under the provisions of this bill. SB 342 would give plaintiffs a more favorable venue in lawsuits against railroads, and would even encourage out-of-state plaintiffs to file their suits in Georgia courts.

SB 342l would also extend the statute of limitations from 12 months to 24 months.

Other bills of interest...

HB 318: Holmes of the 53rd, to enact the “Neighborhood Protection Act” creating a cause of action for property owners against adjacent porpoerty owners for adversely affecting the “quietude” recreational or historic value, minerals, animals, plants, air, water, land, timber, and soil. A carryover from 2001, still in House Natural Resources Committee.

HB 433: Hammontree of the 4th, to amend Title 40 to further regulate the use of off-road vehicles on state and county rights-of-way. Off-road vehicles have caused damage to railroad rights-of-way. See also HB 526. Carryover bills still in House Motor Vehicles Committee.

HB 928: Royal of the 164th, to provide that railroad company shall be allowed a credit against the tax imposed on all fuel purchased and delivered within the stae and fuel purchased outside this state and stored in this state regardless of the place of its subsequent use in an amount equal to 100 per cent of the amount invested in the improvement of rights of way. Expected to remain in House Ways & Means Committee.

###