



# The Capitol Report: February 25<sup>th</sup>, 2002

Provided by The Georgia Railroad Association

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*The General Assembly recessed Thursday and Friday of last week, and may take a full week off before the 30<sup>th</sup> legislative day. Legislative leaders are trying to hold a few of the prescribed 40 legislative days in reserve, just in case federal courts require some re-working of the state's reapportionment plan. Today marks the 23<sup>rd</sup> legislative day*

## **Transportation committee passes grade crossing bill.**

On Wednesday the House Transportation Committee gave a “do pass” recommendations to HB 1382, the grade crossing bill sponsored by Rep. Mickey Channell. Earlier in the week the House Rail Subcommittee, chaired by Rep. Channell, added *additional* amendments proposed by the Georgia Railroad Association. The latest amendments include:

1. Language requiring the DOT to keep detailed records of their costs of investigation and review for grade crossing maintenance and closures. These records shall be subject to public inspection.
2. Clarification regarding financial responsibility for construction of an overpass or underpass when a crossing was closed. The bill makes no changes in existing law on this issue.
3. Clarification that the \$500.00 filing fee applies *per grade crossing* when a city or county requests that the DOT review a maintenance order.
4. Language providing that DOT may grant an extension of time for compliance with a maintenance order when maintenance is delayed by an act of God. GRA was concerned that when a railroad was required to repair a crossing and was unable to complete the work in a timely manner due to circumstances beyond their control they would still be fined \$500.00 a day.

GRA had previously dropped its opposition to HB 1382 when the author amended the bill to address most of our concerns. The maintenance provisions in the bill now focus on safety instead of “smoothness,” and a \$500 filing fee should prevent multiple or frivolous maintenance orders from local governments. Moreover, the bill gives the DOT, not local governments, the final authority to close a crossing, even if the crossing is on a city street or county road. The bill also sets specific, safety related issues to be considered in determining whether to close a crossing.

The Georgia Municipal Association did place one peculiar amendment to the crossing closure provisions in the bill. At GMA's request, the sponsor added to a provision that enhancement of public safety “will outweigh any inconvenience to the reasonable passage of public traffic” the new language, “specifically including without limitation emergency vehicle traffic.” GMA has argued that use of a crossing by emergency vehicles should be a factor against closing the crossing, but their language has the directly opposite effect.

At Wednesday's hearing before the Transportation Committee, GRA highlighted the need for cost sharing, pointing out that railroads are required to maintain roads that they don't own or damage. GRA also noted that, although we no longer oppose the bill, we regard the \$500 a day fine as inequitable. Since the need for crossing maintenance will be based on safety factors, the fine will rarely be assessed. However, it seems inappropriate to fine a railroad for failure to maintain a crossing surface that it does not own and did not damage.

The Rules Committee must place HB 1382 on the calendar before it can be heard by the House of Representatives. The bill must then pass the House before the 33<sup>rd</sup> day to be eligible for consideration in the Senate. If the bill does go to the Senate, GRA will continue to highlight the need for cost sharing in the maintenance of grade crossings.

## **Rep. McCall requests study committee of truck weights.**

Rep. Tom McCall, a member of the House Transportation Committee, requested that Chairman Ralph Twiggs consider appointing a study committee to look at the issue of truck weights. Rep. McCall said the current code sections relating to truck weights and loads are confusing and disorganized. Chairman Twiggs indicated that he probably will not appoint a study committee unless a resolution is adopted calling for such a study.

Rep. McCall's request came after the Transportation Committee passed SB 386, a bill that would allow weight exemptions for short-haul ready-mix concrete trucks. This bill is now in the House Rules committee.

## ***Other bills of interest...***

HB 318: Holmes of the 53<sup>rd</sup>, to enact the "Neighborhood Protection Act" creating a cause of action for property owners against adjacent property 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 4<sup>th</sup>, 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 164<sup>th</sup>, to provide that railroad company shall be allowed a credit against the tax imposed on all fuel purchased and delivered within the state 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.

HB 1273: Massey of the 86<sup>th</sup>, would amend Chapter 3 of Title 22 relating to eminent domain, so as to require railroads and public utilities to gain permission of the affected county or municipality before commencing condemnation proceedings. Referred to House Judiciary Committee.

SB 330: Hecht of the 34<sup>th</sup>, would amend Article 2 of Chapter 3 of Title 46, to amend the "Bus and Rail Vehicle Passenger Act." This bill is very similar to HB 1060 sponsored by Rep. Barnes in the House. The GRA supports these bills, which significantly improve the ability of freight railroads to secure rights of way and other properties. HB 1060 is on the House General Calendar, awaiting action by the Rules Committee.

SB 342: Harp of the 16<sup>th</sup> would amend Title 46 regarding public utilities and transportation so as to increase the statute of limitations for actions against railroads and electric utilities; to provide venue for such actions where the principal office or place of business is located, in addition to county of residence of a registered agent. Still in Senate Finance and Public Utilities Committee.

SB 386: Dean of the 31<sup>st</sup>, would amend Code Section 32-6-26 relating to weights of vehicles and loads so to provide an exemption for ready-mix concrete trucks. Passed Senate and favorably reported by House Transportation Committee.

## ***Thanks to GRA associate members...***

... for renewing or joining the Georgia Railroad Association for 2002. As of today, the associate members on board for this year are:

Adams – Warnock, Inc.	A & K Railroad Materials, Inc.
Birmingham Rail & Locomotive	Bombadier Capital Rail
Carter Burgess	Crouch Engineering
GE Transportation Systems	Georgia Rail Consultants
Kerr-McGee	Lanier Steel Products, Inc.
L. B. Foster	Neel-Schaffer, Inc.
Palmer & Cay of Georgia, Inc.	R. J. Corman Derailment Services
Volunteer Trackworks	