



The Capitol Report February 22, 2008

Provided by The Georgia Railroad Association

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The General Assembly recessed today after passing the halfway mark of the 40-day session Wednesday. The lawmakers will reconvene on Tuesday, the 23rd legislative day, to continue a session that could yield the biggest tax increases in memory.

Transportation funding measures clear hurdles.

The Senate this week passed SR 845 proposing a Constitutional amendment that would allow counties, with the approval of voters, to impose an additional one cent sales tax to fund transportation projects. The proposed amendment includes a provision exempting from the new local option tax fuels and purchased energy used in manufacturing. Senator Jeff Mullis, the sponsor of the resolution, said that current exemptions would be addressed in the enabling legislation, which may not be introduced until next year. This will provide an opportunity for GRA to continue to seek an exemption on the sales tax on diesel fuel for locomotives.

Meanwhile, the House Transportation Committee – after a long and contentious debate -- passed Chairman Vance Smith's transportation funding bill. **HB 1139** would impose a new one cent state-wide sales tax. As introduced, the bill did not provide for any exemptions, but Chairman Smith amended the measure to include current exemptions after hearing from manufacturers.

HB 1139 is the implementing legislation for **HR 1226**, a resolution proposing a Constitutional amendment to allow the imposition of the one cent tax and the dedication of that revenue to transportation projects. Ninety percent of the revenue from this tax would be dedicated to transportation infrastructure in the region where the tax was collected. Ten percent of the funds would be used in state-wide projects.

GRA continues to point out the inequity of imposing the extra 1% sales tax on the rail industry when that extra revenue will go entirely to the maintenance of roads and bridges.

As originally written, **HR 228** took the sales and use and motor fuel taxes for jet fuel and aviation gasoline to be allocated for activities that will maintain an adequate system for the public use airports. GRA was able to amend the resolution to include the sales and use tax from locomotive fuel to be allocated to the railroad improvement fund. This measure is a constitutional amendment and will require a two-thirds vote on the floor. The resolution is scheduled to be on the floor of the House Tuesday February 26th. Please call your House members and encourage them to approve this measure.

Committee approves Speaker's tax plan.

The House Ways & Means Committee yesterday passed three measures that now constitute Speaker Richardson's GREAT plan. All three involve Constitutional amendments. Now in the House Rules Committee, the two resolutions and one bill will likely go to the House floor as soon as the Speaker thinks he has the necessary two-thirds majority.

HB 979 is the implementing legislation for HR 1246, the Resolution proposing a Constitutional amendment. The bill still exempts homesteads from the school portion of the ad valorem tax, and applies the statewide sales tax to almost all services at the retail level. The new tax will not apply to business-to-business services.

The Speaker also asked the Ways & Means Committee to amend SR 796 and include it in his package. This Resolution, introduced by Senator Chip Rogers on behalf of Lt. Governor Casey Cagle, would cap increases in property assessments at 2% per year for residential property and 3% for non-residential property. These caps could be waived and the property reassessed at fair market value if the property is sold, or if additions or improvements are made. Does track maintenance constitute an "improvement" to the property? GRA will work to add clarifying language to the bill where normal maintenance cannot be determined by the Department of Revenue as an "improvement" thus voiding the 3% cap.

The Speaker's amendment to SR 796 provides that millage rates cannot be increased without a local act of the General Assembly.

Adverse Possession bill introduced.

Chairman David Ralston has reintroduced legislation that protects railroad property from being adversely possessed. HB 1283 was redrafted to satisfy the concerns from the Governor's office. The new language states that no party shall attempt to establish possession of land that is identified on the official map of any railroad filed with the Interstate Commerce Commission pursuant to the railroad valuation Act of 1913. Each railroad will be required to file the official map of the railroad with the superior court for the county in which the land is depicted. The court of this state shall take judicial notice of such information. The new language also provides a rebuttable presumption. HB 1283 was assigned to the House Judiciary committee. No hearing date has been set yet.

Bill Status:

HB 268 Davis 109th, Franklin 43rd, Lane 167th to amend Article 9 of Chapter 9 of Title 46, relating to the Georgia Rail Passenger Authority, so as to repeal said article in its entirety; to provide for related matters. **Transportation**

HB 269 Davis 109th, Lakly 72nd to amend Chapter 9 of Title 32, relating to mass transportation, so as to provide for a referendum to approve funding for a commuter rail project within or through a county or municipality. **Transportation**

HB 289 Roberts 154th Freeman 140th Williams 178th Sims 119th Hatfield 177th Peake 137th to amend Article 11 of Chapter 5 of Title 48, relating to ad valorem taxation of public utilities, so as to provide an exemption for eligible expenses for maintenance, repairs, and improvements of a railroad equipment company's railroad cars; to provide for related matters; to provide for a referendum. **Ways & Means**

HB 901 Bruce 64th, Kaiser 59th, Lunsford 110th, to amend Chapter 1 of Title 34 of the O.C.G.A., relating to general provisions relative to labor and industrial relations, so as to enact the "Parent Protection Act"; to provide for leave for employees to attend school conferences and medical appointments; to provide for a remedy; to amend Article 1 of Chapter 1A of Title 20 of the O.C.G.A., relating to early care and learning generally, so as to require day-care programs and preschool programs to provide written notice prior to school conferences; to amend Article 4A of Chapter 2 of Title 20 of the O.C.G.A., relating to community involvement in education, so as to require local school systems and private schools to provide written notice prior to school conferences. **Industrial Relations**

HB 914 Davis 109th amend Title 48, relating to revenue and taxation, so as to change certain provisions regarding applicability of sales and use tax to motor fuel sales; to change certain provisions regarding the second motor fuel tax. **Ways & Means**

HB 981 Butler 18th, McCall 30th, to amend Article 2 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to dimensions and weight of vehicles and loads, so as to provide that concrete haulers are entitled to the same weight variance granted to feed and granite haulers. **Passed Transportation Committee 2/13**

HB 979 Richardson 19th amend Titles 48 and 36, relating, respectively, to revenue and taxation and local government, so as to provide for implementation of the GREAT plan; to provide for the comprehensive revision of provisions regarding revenue and taxation; to change certain provisions regarding the State Board of Equalization; to provide for additional appeals regarding assessment of ad valorem taxes; to provide for procedures, conditions, and limitations; to provide for the imposition and collection of fees on certain motor vehicles; to provide for powers, duties, and authority of county tax commissioners and the state revenue commissioner regarding such fees; to provide for an income tax credit for low-income families on qualified food expenses. **Passed Ways & Means**

HB 1019 Lunsford 110th, Smith 129th, Mills 25th, Sheldon 105th an Act to amend Article 2 of Chapter 10 of Title 32, relating to the State Road and Tollway Authority, so as to enact the "Georgia Transportation Infrastructure Bank Act"; to create the Georgia Transportation Infrastructure Bank as an instrumentality of the state within the State Road and Tollway Authority; to provide for a short title; to provide for governance of the bank; to provide for the functions of the bank in general and in particular with respect to the financing of transportation projects of government units; to define terms; to provide for the powers, duties, governance, and operations of the bank; to provide for capitalization of the bank and funding sources; to authorize the issuance of bonds by the authority for purposes of the bank. **Passed Transportation committee 2/21**

HB 1026 Smith 126, Rogers 26, to amend Section 32-6-171 of the Official Code of Georgia Annotated, relating to the authority of the Department of Transportation to order removal, relocation, or adjustment of utility facilities, so as to provide that a utility may be exempt from certain requirements of notice and hearing when the department requires the removal, relocation, or adjustment of the facilities as a result of public road improvements. Senate **Transportation**

HB 1056 Davis 109th, Lunsford 110th to amend Article 4 of Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to metropolitan area planning and development commissions, so as to define a certain term; to provide that no transportation plan developed by a metropolitan area planning and development commission shall become effective unless approved by the General Assembly. **Transportation**

HB 1077 O'Neal 146th amend Chapter 9 of Title 48 relating to motor fuel and road taxes, so as to change certain definitions regarding such taxes. **Ways & Means**

HB 1078 O'Neal 146th to amend Chapter 8 of Title 48, relating to sales and use taxes, so as to change certain definitions regarding such taxes. **Ways & Means**

HB 1079 O'Neal 146th amend Chapter 7 of Title 48 relating to income taxes, so as to change certain definitions regarding such taxes. **Ways & Means**

HB 1080 O'Neal 146th amend Chapter 6 of Title 48, relating to taxation of intangibles, so as to change certain provisions regarding the real estate transfer tax. **Ways & Means**

HB 1081 O'Neal 146th amend Chapter 5 of Title 48 relating to ad valorem taxation of property, so as to change certain definitions regarding such taxation. **Ways & Means**

HB 1123 Shaw 176th, Smith 129th, Sheldon 105th to amend Chapter 2 of Title 32, relating to the Department of Transportation, so as to require the commissioner of transportation to file reports on matters of interest to the General Assembly. **Senate Transportation**

HB 1139 Smith 129th, Sheldon 105th, Shaw 176th, Harbin 118th, Rogers 26th, Floyd 147th amend Chapter 8 of Title 48, relating to sales and use taxes, so as to implement a 1 percent increase in the state-wide sales and use taxes to be used for transportation purposes; to not exempt motor fuels from such increase in the state-wide sales and use taxes; to amend Chapter 13 of Title 48, relating to specific, business, and occupation taxes, so as to reflect the 1 percent increase in the sales and use tax; to provide for distribution of the proceeds of the state-wide transportation tax; to provide for related matters; to provide for a contingent effective date and applicability. **Passed House Transportation 20-5**

HB 1146 Freeman 140th, Porter 143rd, Smith 70th, Cole 125th amend Part 1 of Article 8 of Chapter 1 of Title 10, relating to sale of petroleum products, so as to prohibit the production, offering for sale, or sale of diesel fuel unless such fuel contains 2 percent biodiesel fuel. **Energy, Utilities& Telecommunication**

HB 1199 Porter 143rd, Smyre 132nd, Hugley 133rd amend Chapter 2 of Title 32, relating to the Department of Transportation, so as to require the commissioner to file reports on the amount of funds expended on public transit projects and the progress of such projects. **Transportation**

HB 1210 Channell 116, Sheldon 105th, Golick 34th amend Chapter 7 of Title 48, relating to income taxes, so as to provide for an income tax deduction for high deductible health plans established and used with a health savings account; to provide for an income tax credit for certain employers who provide high deductible health plans established and used with a health savings account; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing. **Ways & Means**

HB 1283 Ralston 7th, Roberts 154th, Shaw 176th to amend Article 2 of Chapter 4 of Title 24, relating to presumptions and estoppel, so as to provide that occupancy of a railroad right of way is with the permission of the railroad corporation or railroad company, but such presumption may be rebutted; to amend Chapter 5 of Title 44, relating to acquisition and loss of property, so as to change provisions relating to the law regarding the alienability of future interests; to change provisions relating to how actual possession of lands is evidenced so as to provide special provisions for railroad corporations or companies; to change provisions relating to constructive possession of lands so as to provide special provisions for railroad corporations or companies. **Judiciary**

HR 228 Rogers 26th, Harbin 118th, Smith 113th, Proposing an amendment to the Constitution so as to provide that funds derived from sales and use and motor fuel taxes with respect to jet fuel and aviation gasoline and sales and use taxes with respect to locomotive fuel shall be allocated for activities incident to providing and maintaining an adequate system of public-use airports and railroads in this state, respectively; to authorize

the General Assembly to specify and direct the use of such funds by general law; to provide for submission of this amendment for ratification or rejection. **On House floor Monday**

HR 1226 Smith 129th, Sheldon 105th, Shaw 176th, Harbin 118th, Rogers 26th, Floyd 147th A RESOLUTION proposing an amendment to the Constitution so as to provide that funds derived from an additional 1 percent increase in the general state-wide sales and use tax shall be appropriated for any or all transportation purposes; to authorize the General Assembly to allocate and specify and direct the use of such funds by general law; to provide that 90 percent of the funds are to be expended for transportation purposes in the regional commission area where the funds were collected; to provide that 10 percent of the funds collected shall be expended for state-wide transportation projects; to provide for submission of this amendment for ratification or rejection. **Passed House Transportation 20-5**

HR 1246 Richardson 19th A RESOLUTION proposing an amendment to the Constitution so as to provide for tax relief from ad valorem property taxes; to provide for a short title; to authorize additional tax relief including the elimination of ad valorem property taxes for educational purposes; to provide for optional homeowner's incentive adjustments; to authorize the limited amending of conflicting local constitutional amendments; to provide for the automatic repeal of The Property Tax Reform Amendment unless specifically continued by general law; to provide for the revival and restoration of certain prior general and local constitutional provisions. **Passed Ways & Means**

SB 233 Thompson 5th, Stoner 6th to amend Title 32, relating to highways, bridges, and ferries, so as to change certain provisions regarding collections, expenditures, and exemptions with respect to certain revenue regarding roads; to change certain provisions regarding priority of expenditures from the State Public Transportation Fund; to change certain provisions regarding allocation of state and federal road funds. Transportation

SB 359 Golden 8th, Pearson 51st, Stoner 6th to amend Chapter 7 of Title 50 of the Official Code of Georgia Annotated, relating to the Department of Economic Development, so as to provide legislative findings; to create a "Made in Georgia" program. **Senate Economic Development**

SB 371 Stoner 6th, Mullis 53rd, Seay 34th to amend Code Section 32-6-200 of the Official Code of Georgia Annotated, relating to the installation of protective devices at railroad grade crossings, so as to provide for legislative findings; to define a certain term; to provide that local school districts shall provide the Department of Transportation with information regarding rail crossings without active warning devices that are used by school buses; to provide that local school districts shall use best efforts to reroute buses to minimize use of such crossings; to provide for related matters; to provide for an effective date. **Passed Senate floor**

SB 410 Stoner 6th, Williams 19th, Seay 34th, Pearson 51st A to amend Code Section 32-10-63, relating to powers of the State Road and Tollway Authority, so as to authorize the creation of a state congestion relief fund to be used for projects initiated by community improvement districts. **House Transportation**

SB 417 Mullis 53rd, Seay 34th, Williams 19th amend Chapter 2 of Title 32, relating to the Department of Transportation, so as to require the commissioner of transportation to develop and publish benchmarks and issue reports on the progress of construction projects; to require the commissioner to perform value engineering studies. **House Transportation**

SB 420 Pearson 51st, Mullis 53rd, Williams 19th amend Chapter 7 of Title 12, relating to control of soil erosion and sedimentation, so as to exempt the Department of Transportation and its contractors from civil penalties levied for violations. **Senate Tabled**

SR 341 Thompson 5th, Reed 35th, Stoner 6th A RESOLUTION proposing an amendment to the Constitution so as to provide that funds derived from motor fuel taxes may be appropriated for and grant made for all activities incident to providing and maintaining an adequate system of public roads and bridges in this state and for any or all transportation purposes; to authorize the General Assembly to allocate and specify and direct the use of such funds by general law; to provide for submission of this amendment for ratification or rejection. Transportation

SR 428 Mullis 53rd, Staton 18th, Goggans 7th, Douglas 17th, Stoner 6th A RESOLUTION to create the Senate Railroad Safety and Security Study Committee. **Senate Rules**

SR 686 Johnson 1st, Rogers 21st, Williams 19th A RESOLUTION proposing an amendment to the Constitution so as to require the freezing of existing residential real property values and to provide that residential real property and interests therein shall be appraised for ad valorem taxation purposes at their fair market value as of the date of the owner's acquisition thereof; to provide for conditions and limitations regarding valuation increases; to provide for authority of the General Assembly with respect to the foregoing; to provide for the submission of this amendment for ratification or rejection. **Passed Senate 53-3 in House Ways & Means**

SR 750 Pearson 51, Mullis 53rd, Rogers 21st, RESOLUTION urging the United States Department of Transportation to reconsider its mission and purpose. **House Transportation**

SR 781 Mullis 53rd, Williams 19th, Stoner 6th, Pearson 51st A RESOLUTION urging the Georgia Department of Transportation to develop a state-wide strategic transportation plan. **House Transportation**

SR 796 Rogers, 21st, Williams 19th, Mullis 53rd RESOLUTION proposing an amendment to the Constitution so as to provide for ad valorem tax reform; to freeze the valuation of real property except for certain adjustments; to provide for procedures, conditions, and limitations for certain increases; to provide procedures for increasing or decreasing millage rates on taxes for educational purposes; to provide for the submission of this amendment for ratification or rejection; and for other purposes. **Passed House Ways & Means**

SR 822 Shafer 48th, Mullis 53rd, Reed 35th A RESOLUTION creating the Georgia-North Carolina and Georgia-Tennessee Boundary Line Commission; and for other purposes. **House Judiciary**

SR 845 Mullis 53rd. A RESOLUTION proposing an amendment to the Constitution so as to authorize county governments to propose for approval by the voters of their county a 1 percent sales and use tax to fund the construction of transportation projects; to limit the sales and use tax to a specified period; to provide for adding the proposition to the ballot; to provide for the authority of the General Assembly with respect to enacting by April 1 of the year following enactment a mechanism for expending the funds; to provide for the submission of this amendment for ratification or rejection; and for other purposes. **Passed Senate 51-4. In House Transportation**

SR 863 Seay 34th, Mullis 53rd, Pearson 51st, Williams 19th, A RESOLUTION proposing an amendment to the Constitution so as to provide that funds derived from sales and use and motor fuel taxes with respect to jet fuel, aviation gasoline, and locomotive fuel shall be allocated for activities incident to providing and maintaining an adequate system of public-use airports and railroads in this state; to authorize the General Assembly to specify and direct the use of such funds by general law. **Senate Finance**