



The Capitol Report: March 10th, 2003

Provided by The Georgia Railroad Association

P.O. Box 2363

Woodstock, GA 30188

770-516-4636

www.georgiarailroad.org

The General Assembly recessed Thursday, March 7, and will return in two weeks. The recess will allow time for the lawmakers to make the tough decisions required for the 2004 budget. Only 14 more legislative days remain in the 40-day session.

Class action bill clears the Senate committee

The Senate Insurance and Labor Committee on Wednesday approved a business-backed bill to change judicial procedures for handling class action lawsuits. Introduced by Senate President Pro-Tempore Eric Johnson, SB 217 would require that classes be certified and approved on immediate appeal before the lawsuit could proceed.

SB 217 is intended to avoid costly litigation in cases where the class is ultimately not certified, and to curtail plaintiff lawyer "fishing expeditions" through discovery when no valid class exists. Similar measures have been adopted in other states where lucrative "cottage industries" have grown up around the filing of class action lawsuits. SB 217 is viewed by business as a preventive measure to ensure that Georgia does not become the next favorite location for lawyers plying this trade.

The bill appears to be on a fast-track passage in the Senate. It will likely face a stiffer challenge in the House Judiciary Committee.

Unemployment Comp bill moves through the Senate

Also on Wednesday the Senate amended and passed SB 167, providing for a one-year extension on the moratorium on employer payments to the Employment Security Trust Fund. An amendment passed by a one vote margin would extend unemployment benefits to part-time workers.

Labor Commissioner Michael Thurmond contends that extension of the moratorium will break the Trust Fund in less than two years. Providing unemployment benefits to part-time workers will exacerbate the problem. The fund is now just over \$1 billion.

Under current law, a stiff surcharge would be added to employer assessments if the moratorium were removed. On the other hand, many employers are concerned about the health of the trust fund, and have asked the Commissioner to consider whether adjustments in the tax base could provide adequate revenue if the surcharge were lifted.

SB 167 now goes to the House Industrial Relations Committee, where a majority of the members are pro-labor. Very likely, members of that committee will attempt to amend SB 167 so that victims of domestic violence are also eligible for unemployment compensation. A bill to that effect, HB 591, was introduced in the House by Rep. Nan Orrock, a member of the Industrial Relations Committee.

Single factor income tax formula proposed

A bill introduced by the chairman of the House Ways & Means Committee would eliminate the current three-factor formula that Georgia uses for calculating corporate income taxes in favor of a single factor formula. HB 559 by Rep. Richard Royal would base the corporate income tax entirely on gross receipts, eliminating payroll and capital investment from the apportionment formula.

Elimination of the payroll and capital investment factors would favor those companies with major facilities and large numbers of employees in the state. The tax burden would be shifted to fall more heavily on those companies that sell a lot of product in Georgia but have little investment or employment in the state.

Prospects for passage of this measure during an economic downturn are not good. A fiscal note on the bill estimates revenue loss as high as \$60 million annually.

Tort reform moving slowly

The Senate Judiciary Committee continued the tortuous hearings on **SB 133** this week, with little indication that the bill is gaining any traction. Judiciary Chairman Charles Tanksley has indicated that a substitute measure may be offered in the Committee.

While there are no details on a possible substitute bill, it would likely eliminate, or at least elevate, the proposed \$250,000 cap on non-economic damages.

Bill Status Report

HB 22: Manning of the 32nd – would amend Chapter 3 of Title 22 relating to exercise of power of eminent domain for special purposes, so as to prohibit the use of the power of eminent domain to acquire any property for the construction of an electric transmission line without the issuance of a certificate of public convenience and necessity by the Public Service Commission.

HB 131: Holmes of the 48th- would amend Title 41 relating to nuisances so as to enact "The Georgia Neighborhood Protection Act." Would create a cause of action by a property owner adversely affected by pollution, impairment or destruction of natural resources. Defines "natural resources" as including but not limited to all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational, and historic resources. Still in House Judiciary Committee.

HB 497: Porter of the 119th – would amend Title 46 to create the East Central Georgia Railroad Excursion Authority. The Authority would be established for the purposes of construction, financing, operation, and development of rail passenger excursion projects utilizing any state owned railway in Bibb, Twiggs, Wilkinson, Laurens, Treutlen, Montgomery, and Toombs counties and any nearby county which may be included within the service area. The Authority would have power to "acquire by purchase, lease, condemnation, or otherwise and to hold, lease, and dispose of real and personal property of every kind and character or any interest therein in furtherance of the public purpose of the authority." Referred to House Economic Development & Tourism Committee.

HB 541: Stephens of the 123rd, Royal of the 140th, and others- would amend Article 1 of Chapter 8 of Title 48 relating to state sales and use taxation, is amended by striking Code Section 48-8-3.1, relating to application of sales and use tax to motor fuels. This bill is engrossed and in the House Ways & Means Committee.

HB 591: Orrock of the 51st, -to amend Chapter 8 of Title 34 relating to employment security, so as to provide that certain persons seeking part-time work are not disqualified from receiving benefits by that fact alone; to provide that certain persons may be unemployed through no fault of their own due to undue family hardship arising out of domestic violence or compelling family obligations and may therefore be eligible for unemployment compensation. In House Industrial Relations Committee

HB 633: Mobley of the 58th to amend Title 34, relating to labor and industrial relations, so as to change the provisions relating to prohibitions against sex discrimination in employment; to prohibit certain discrimination in employment and in membership in labor organizations on the basis of sex, race, or national origin. In House Industrial Relations Committee.

HB 664: Bordeaux of the 125th to amend Article 2 of Chapter 3 of Title 22, relating to the construction and operation of electric power plants, so as to remove the power of eminent domain from persons operating, constructing, or preparing to construct electric power plants. Passed House Judiciary subcommittee.

SB 225: Thompson of the 33rd would enact the "Frivolous Litigation Prevention Act" under Title 9. In Senate Judiciary Committee.

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