



The Capitol Report: March 21st, 2003

Provided by The Georgia Railroad Association

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The General Assembly returns from a two-week budget recess today and will likely take at least one more extended recess by the end of this week. Today is the 27th legislative day of the 40-day session.

Tort reform measure in deep trouble.

Senate Judiciary Committee Chairman Charles Tanksley is expected to offer a substitute version of the business-backed civil justice reform bill in his committee today. Senator Tanksley's version of SB 133 will drop several of the key features in the bill, including provisions to eliminate joint and several liability and to offset collateral sources, as well as the cap on non-economic damages. Some contend that the substitute makes a full about-face and becomes a pro-plaintiff lawyer bill. The Georgia Chamber of Commerce will lead attempts to restore important provisions to the bill in the Judiciary Committee.

Senator Tanksley's version of SB 133 will keep provisions on vanishing venue, forum non conveniens and expert witness. The substitute adds provisions to increase discount rates on future awards from the current 5% to 10%. This provision is Senator Tanksley's alternative to a cap on non-economic damages.

Even if SB 133 is restored, it will face a chilly reception in the House. Pro-business Democrats in the House leadership are miffed that the business community went to the new Republican majority in the Senate with this bill instead of bringing it to their long-time supporters in the House. In addition, House Judiciary Chairman Tom Bordeaux announced early-on that the bill would be dead on arrival in his committee.

Class action lawsuit bill moving in Senate.

Legislation to require early certification of classes in class action lawsuits will likely be considered on the Senate floor this week. As with SB 133, however, SB 217 could become the victim of partisan politics. Although the bill has co-sponsors from both parties, Senate President Pro Tempore Eric Johnson is the lead sponsor. Pro-business Democrats in the House leadership may introduce their own version of the bill.

SB 217 would require that classes be certified and approved on immediate appeal before the lawsuit could proceed. This would curtail plaintiff lawyer "fishing expeditions" through discovery and avoid costly litigation in cases where the class is ultimately not certified.

Railroad Excursion Authority approved by subcommittee.

The Economic Development & Tourism subcommittee late last week amended and passed legislation to create a new railroad excursion authority in South Georgia. HB 497, introduced by Speaker Pro Tempore DuBose Porter and other members of House leadership, provides for an authority to 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. The bill was amended to include Wheeler, Telfair, Burke and Emanuel counties in the service area.

The Authority would have power to "acquire property 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." HB 497 was also amended to limit the number of members of the authority to one person from the county and one person from the county seat. The local governing authorities would name the authority members.

This would be the second rail excursion authority in Georgia, and GRA is concerned about the possible proliferation of such authorities. GRA is encouraging the sponsors of HB 497 to work directly with railroads on straight-forward business agreements instead of creating authorities.

Motor vehicle amendments address grade crossing safety.

Comprehensive amendments to the motor vehicle code in Title 40 are in the Senate Rules Committee and could be on the Senate calendar this week. SB 173 by Senator Tommie Williams includes new language on the responsibilities of drivers using railroad grade crossings.

SB 173 would allow drivers transverse without stopping any crossing with no barriers, stop signs, flagmen, or signal devices if they slow to a "reasonable and prudent" speed slow enough to allow the driver to stop safely prior to reaching the rails. The bill specifically prohibits driving over a crossing when a train is approaching or when there is insufficient space to drive completely through the crossing without stopping. The bill also specifically prohibits driving over a crossing in a vehicle with insufficient undercarriage clearance to negotiate the crossing.

Just a reminder:

The GRA Spring Conference is June 8-10 at Brasstown Valley Resort in Young Harris, Georgia. Registration forms have been e-mailed to all members, [additional registration forms are available on the GRA website](#). Registration forms are due to the GRA office by April 25, 2003 and your room reservations must be made by April 24, 2003. You may contact the Brasstown Valley Resort directly at 800-201-3205 to make your room reservation.

Don't forget to check out the GRA website – www.georgiarailroad.org – the best source of information on Georgia railroads and railroad suppliers.