



# 2009

## Legislative Summary

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## **LEGISLATIVE ALERT - 2009 FINAL**

The 2009 legislative session ended at midnight on Friday, April 3<sup>rd</sup>. In addition to the two major issues of taxation and transportation that dominated the time and energy of GMA lobbyists and city officials alike, many other bills passed and are pending action by the Governor.

First, taxation and transportation activities are summarized in detail below. Subsequently, an overview of some of the major bills and the status of each are organized by GMA standing policy committees.

For a complete listing and disposition of all bills GMA tracked that were considered by the General Assembly, please visit the GMA Legislative Tracking System on the GMA web site at <http://www.legtracking.gmanet.com/>.

The Board and staff of GMA thank you for all your efforts this past year and look forward to your input as we begin the process of developing the 2010 GMA Legislative Platform.

### **TAXATION**

While no comprehensive "tax reform" passed this year, local government taxation remains a topic of discussion that will continue into the 2010 session. In fact, most of the discussion of "tax reform" turned out to be attacks on local revenue sources, rather than a holistic examination of all taxation in the State of Georgia.

GMA continues to call for the creation of a statewide Blue Ribbon Commission to address tax reform in a measured and informed manner with real public policy goals in mind. Senate Resolution 453 was introduced by Senator Eric Johnson to create the Georgia Tax Reform Commission of 2009 to study Georgia's entire revenue structure. Unfortunately, SR 453 failed to pass this session, stalling in the House.

GMA helped defeat numerous legislative attempts to limit cities' ability to generate revenue needed to pay for the services cities' taxpayers demand. Notably, leadership in the House sought to pass House Resolution 1, which would have capped assessment increases on all property at 3% or CPI, whichever is less. GMA worked to defeat this measure.

In addition, Senate Bill 83 was stopped in the House by the House Democratic Caucus on two different occasions during the session. SB 83 would have created a new \$1000 homestead exemption for cities, counties, schools and the state in 2011. The exemption would have increased to \$2000 in 2012 and would have been adjusted annually for inflation after that. It is important to note that this proposal would not have provided any state reimbursement to local governments to cover the budget shortfalls that would have occurred had SB 83 passed.

Senate Democratic Caucus members voted to defeat House Bill 483 which had been amended in the Senate to increase the \$2,000 homestead exemption for county and school purposes to \$10,000 over an eight year period. It was anticipated that a similar homestead exemption for cities would have been inserted into the bill if it had passed the Senate.

## **TRANSPORTATION**

Differences between the House and Senate on the type of sales tax to impose, politics related to legislation that would have provided MARTA the flexibility to use their capital reserve fund for operations, and the Governor's interest in gaining control of the motor fuel expenditures from the DOT ended up dooming the effort to enhance funding for transportation this year. The differences in each chamber's approach to new transportation financing mechanisms prevented any legislation from passing on the last night of the legislative session. The House and Senate introduced competing proposals early in the session, but never arrived at a compromise.

The Senate proposed a constitutional amendment that would have allowed for regional referenda for the imposition of up to a 1% sales tax for local or regional transportation purposes. The House preferred a 1% statewide sales tax if approved by a Constitutional Amendment to be used on projects and programs all across Georgia.

A governance bill, Senate Bill 200, did pass which leaves the DOT in place, with the Board elected in the exact same manner as is currently, and creates a new director of planning and a planning division within the DOT.

The planning director would be appointed by, and serve at the pleasure of, the Governor, subject to confirmation by the House Transportation Committee. The planning director's main responsibilities are: to develop annual capital construction project lists to be reviewed by the Governor and submitted to the General Assembly for consideration in the budget and to submit the state transportation improvement program and statewide strategic transportation plan to the Governor and then the DOT Board for approval.

Funding of transportation needs of both local communities and the state's network will continue to be an issue into the next legislative session, but it is incumbent upon city officials to talk with their legislators about the importance of making transportation investments in cities.

## SUMMARY BY TOPICS

### COMMUNITY DEVELOPMENT

#### PASSED

**House Bill 427 – Enterprise Zones:** This bill revises the criteria used to determine "pervasive poverty" to look at parcels within or adjacent to census block groups where the ratio of income to poverty for at least 15 percent of the residents is less than 1.0. The changes include: looking at parcels of property for inclusion in the enterprise zone rather than just census block groups themselves, looking at parcels adjacent to census block groups with pervasive poverty and lowering the percent of residents with a ratio of income to poverty to less than 1.0 from 20 percent to 15 percent. **Status: Signed by the Governor on April 21, 2009.**

**Senate Bill 141 – Prompt Deed Recording:** This legislation requires the purchaser of foreclosed property to file the deed under power with the clerk of superior court within 90 days. The prompt filing of the deed under power will make it easier for local governments to determine who owns the property and hold the owner responsible for code violations. **Status: Signed by the Governor on May 5, 2009.**

**Senate Bill 168 – Ethics Disclosure and Filing:** This legislation eliminates the requirement that state-elected officials file their disclosure reports with the county election superintendent. The bill limits the authority of the State Ethics Commission to the powers specifically authorized by state statute. The bill also requires the Commissioner of the Department of Revenue to provide the Chairperson of the Senate and House Ethics Committees the names of any Senator and Representative who has not filed a Georgia personal income tax return. **Status: Signed by the Governor on May 5, 2009.**

#### DID NOT PASS

**Senate Bill 96 – Local Ethics Boards Required:** This legislation requires each county, municipality and school board to adopt an ethics ordinance for the local filing, review and disposition of ethics complaints. The ordinance must establish an ethics panel to hear complaints. The ethics panel must meet regularly and will have the power to subpoena witnesses, compel the production of evidence and impose civil penalties of up to \$1,000 per violation. **Status: Failed to pass this year and is pending in the House Ethics Committee.**

**Senate Bill 188 – Code Enforcement Officers: Voluntary Training:** This legislation creates a voluntary training program for code enforcement officers. It also provides that knowingly and willfully obstructing a code enforcement officer is a misdemeanor. **Status: Failed to pass this year and is pending in the House Judiciary Non-Civil Committee.**

**Senate Bill 192 – Cell Tower Siting Restrictions:** This legislation provides for a number of limitations on municipal regulations governing cell tower siting. **Status: Failed to pass this year and is pending in the Senate Regulated Industries Committee.**

## ENVIRONMENT AND NATURAL RESOURCES

### PASSED

**Senate Bill 155 – Stream Buffer Requirements – Remove Ephemeral Streams:** This legislation would exempt ephemeral streams from the 25 foot buffer requirement currently in law. Ephemeral streams would be defined as a stream that has water flowing only during and for a short time after rain, has a channel above the ground-water table year round, which isn't fed by groundwater, and for which rainwater is the primary source of water flow. **Status: Signed by the Governor on May 4, 2009.**

### DID NOT PASS

**House Bill 158 – Water Metering of Tenants:** This legislation would require any new or renovated apartment building permitted after January 1, 2010 to have sub-metering of each residential unit within the building. Water use shall be charged to each of the tenants in these buildings. **Status: Failed to pass this year and is pending in the Senate Natural Resources and Environment Committee.**

**House Bill 316 and Senate Bill 194 – Exempt State Government from Storm Water Fees:** This legislation would have exempted state government, agencies and authorities from paying local storm water utility charges. Senate Bill 194 was a simple bill dealing with GEFA, which was “hijacked” to include language of HB316 in the proposed Conference Committee Report, but was rejected on the Senate floor. **Status: Failed to pass this year, but both proposals are pending action again next session.**

**House Bill 406 – Service Delivery Strategies Exemption for Reservoirs:** This legislation would allow Georgia Environmental Facilities Authority funds to be used for drinking water reservoir projects and facilities serving wholesale customers regardless of whether the local government receiving the funds has a verified service delivery strategy (SDS). Within a year after a reservoir financed this way becomes operational, all local governments in the county or counties affected shall update their SDS to be consistent with water supply arrangements resulting from the reservoir operations. **Status: Failed to pass this year and is pending in the Senate Natural Resources and Environment Committee.**

## MUNICIPAL GOVERNMENT

### PASSED

**House Bill 371 – Public Retirement Systems:** This legislation allows public retirement systems to invest up to 65 percent of system assets in equities and increases that amount to 70 percent effective July 1, 2010 and 75 percent effective July 1, 2011. The bill also changes the definition of "large retirement system" by raising the minimum asset requirement from \$50 million to \$200 million and by eliminating the requirement to use professional investment managers. It also eliminates the prohibition on having an accumulated unfunded actuarial liability no greater than 25% of its total assets. **Status: Signed by the Governor on April 21, 2009.**

**House Bill 529 – Local Ordinance Preemption: Production of Ag/Farm Products:** This legislation preempts local ordinances regulating animal husbandry and crop management. Additional language in the bill preserves local regulatory control over land application of human waste and indicates that zoning ordinances are not preempted. **Status: Signed by the Governor on May 1, 2009.**

**House Bill 553 - Local Government Equipment Financing Authority:** This legislation provides for the formation of an authority that can lower the cost of local government equipment purchases. The authority can issue tax-exempt bonds and make the proceeds available to Georgia cities, counties and school boards for the purchase of equipment. **Status: Vetoed by the Governor on May 11, 2009.**

**Senate Bill 26 – Firefighters: Limit Disclosure of Information:** This legislation exempts from public disclosure under the Open Records Act the home address, social security number, telephone number, insurance or medical information of firefighters. It also exempts account numbers, including utility account numbers, and passwords from public disclosure, as well as exempting data collected by cities and counties in conjunction with neighborhood watch or public safety notification programs. Finally, it amends the exemption for records prohibited from disclosure by the federal government so that the exemption will only apply to records prohibited by federal statute and regulation. **Status: Signed by the Governor on April 21, 2009.**

**Senate Bill 44 – Purchasing of Products:** This legislation provides that materials, supplies, equipment and agricultural products be purchased from Georgia companies or products produced within the state, if possible. **Status: Signed by Governor on April 29, 2009.**

## **DID NOT PASS**

**House Bill 48—Franchise Fees:** This legislation would convert the municipal franchise fee into a tax, thereby invalidating all municipal franchise agreements in the state. It would prohibit charging a franchise fee onto manufacturing businesses, which would reduce the amount of revenue generated. It would also prohibit a city from charging unincorporated residents for the utility's use of the municipal right of way, although city customers would get no relief from paying for acquisition of property by utilities in the unincorporated area to serve customers there, from paying county property taxes to counties in which electric generating facilities are located, or from subsidizing the cost to provide electricity to more rural areas of the state. **Status: Failed to pass this year and is pending in the House Governmental Affairs Committee.**

**House Bill 122 – City and County Budgets: Posting on Website:** This legislation would require all city and county governments that have a budget greater than \$5 million to post its current budget on its website. Posted budgets would be required to be archived for at least five years. **Status: Failed to pass this year and is pending in the House Governmental Affairs Committee.**

**House Bill 413 – Residency Requirements for Local Government Employees:** This legislation removes the provision that prohibits local governments from requiring department heads and appointed officials to live inside the jurisdiction. It also provides that the legislature by Local Act could require that employees live inside the jurisdiction. **Status: Failed to pass this year and is pending in the House Governmental Affairs Committee.**

**House Bill 516 - Industrialized Buildings: Exempt from Local Ordinances:** This legislation would deem as invalid and unenforceable any local government ordinance or regulation that treats residential industrialized buildings differently from buildings that are built on-site. **Status: Failed to pass this year and is pending in the Senate Agriculture & Consumer Affairs Committee.**

**House Bill 558 – Deannexation:** This ill-conceived and poorly drafted legislation removes city government from the decision making process in certain deannexation petitions. Areas that have been annexed within the last two to five years that are contiguous to the unincorporated area of the county may be deannexed upon written application of land owners and resolution of the county. **Status: Failed to pass this year and is pending in the House Intragovernmental Coordination Committee.**

**Senate Bill 236 – Land Use Moratoria: Prohibit:** This legislation would prohibit cities and counties from enacting any zoning or land use moratoria unless the local government can prove that the moratorium is necessary due to a shortage of water and sewer facilities or street improvements. **Status: Failed to pass this year and is pending in the Senate State & Local Government Operations Committee.**

## PUBLIC SAFETY

### PASSED

**House Bill 2 - Immigration Verification Statutes: Grantees to Submit Written Compliance:** This legislation provides that any failure of state agencies and local governments to comply with state mandates to utilize the federal E-verify and SAVE programs (which require verification of legal status of employees and public benefit recipients respectively) may be considered in the state appropriations process. The underlying problem with this bill is that there is tremendous uncertainty as to what services or programs offered by city governments qualify as public benefits under federal law, thus making compliance with SAVE extremely complicated. The bill provides that the state Attorney General will supply a list of public benefits requiring verification but also lists a number of undefined, vague terms as public benefits. **Status: Signed by the Governor on May 12, 2009.**

**Senate Bill 20 - Immigration Verification Mandates, Loss of Funding:** This legislation would allow the withholding of all state and state-administered federal funds from cities if they adopt policies that "prohibit or restrict local officials from communicating or cooperating with federal officials or law enforcement officers" in disclosing immigration status information the city may have on individuals. **Status: Signed by the Governor on May 6, 2009.**

**Senate Bill 82 - Metal Theft: Tools for Law Enforcement:** This legislation provides that metal recyclers must undertake a number of measures to ensure that those selling metal to them are not doing so illegally. **Status: Signed by the Governor on May 6, 2009.**

### DID NOT PASS

**Senate Bill 127 – Fine Add-On: Penalties for Late Remittance:** This legislation creates a 5% fee and interest penalties on any fine add-on funds that are remitted late to the superior court clerk's cooperative. The bill also provides that when any court is late in remitting such funds, the local government loses its local government qualified status and can therefore not receive state funds. GMA believes these new draconian penalties are not necessary given that current law already provides for criminal liability for court clerks that do not timely remit funds and that the chief judge of the superior court has specific statutory authority to issue orders compelling compliance with remittance of fine add-ons. **Status: Failed to pass this year and is pending in the Senate Special Judiciary Committee.**

**House Bill 478 – Municipal Court Judges:** This legislation requires that all judges of the municipal court be attorneys in good standing with the State Bar of Georgia. It grandfathered any currently serving non-lawyer municipal judges so long as they remain in

continuous service as a municipal court judge. **Status: Failed to pass this year and is pending in the House Governmental Affairs Committee.**

## **TAXES AND REVENUE**

### **PASSED**

**House Bill 56 - LOST Dispute Resolution:** This legislation prevents the lapsing of LOST by one party's refusal to sign the distribution certificate by creating a "baseball arbitration" process in which a senior judge selects the most appropriate proposal in the event of a deadlock. **Status: Vetoed by the Governor on May 11, 2009.**

**House Bill 63 - Tax Allocation Districts:** This is enabling legislation pursuant to the 2008 Constitutional Amendment which narrowly defines "redevelopment area" for purposes of creating a tax allocation district. **Status: Signed by the Governor on April 22, 2009.**

**House Bill 181 - Unidentifiable Sales Tax Collections:** This legislation reauthorizes the Commissioner of Revenue to distribute some \$18 million of unidentifiable sales tax proceeds back to cities, counties and schools. **Status: Signed by the Governor on May 5, 2009.**

**House Bill 233 - Temporary Freeze on Assessment Increases:** This legislation prohibits increases in property assessments through January, 2011. As such, the assessed value of property may decrease or stay the same as in 2008. When property is sold it will not be reassessed. Substantial additions or improvements will be assessed at fair market value. Rezoning at the request of the property owner will trigger a reassessment at fair market value if the use of the property is changed to conform with the new zoning. This legislation will not apply to state taxes property or to property in a county in which a millage cap is imposed through a local constitutional amendment. **Status: Signed by the Governor on May 5, 2009.**

**House Bill 304 – Tax Appraisers on Property:** This legislation prohibits a tax assessor from entering private property without providing notice to the occupant of the reason why the assessor is entering the property. **Status: Signed by the Governor on May 4, 2009.**

**House Bill 318 – Property Tax Exemption for Heavy Duty Equipment Motor Vehicles:** This legislation addresses the taxation of motor vehicles used on farms. The final version of the bill also creates a one year (2010) property tax exemption for heavy equipment vehicles that are not owned by a publicly traded entity. **Status: Signed by the Governor on May 12, 2009.**

**House Bill 334 – Threshold for Electronic filing of Sales Taxes:** This legislation lowers the threshold for electronic filing of sales taxes from \$5,000 to \$1,000 and

eventually to \$500 thereby speeding up disbursements to local governments. **Status: Signed by the Governor on May 4, 2009.**

**House Bill 410 – Insurance Premium Tax:** This legislation exempts life insurance companies from paying local insurance premium taxes on high deductible health plans. **Status: Signed by the Governor on May 4, 2009.**

**Senate Bill 55 – Requirement to Include Foreclosure Sales as Comps:** This legislation requires tax assessors to include foreclosure or bank owned sales of comparable real property. It also makes amendments with respect to notices of assessment changes and with respect to conservation use property. **Status: Signed by the Governor on April 14, 2009.**

**Senate Bill 240—Amendments to Property Assessment and Appeals Process:** This legislation creates new optional arbitration process for determining the value of property for tax purposes in the event that the taxpayer disputes the assessed value set by the tax assessors. It also makes several changes to the assessment and appeals processes. Importantly, with respect to the process of collecting delinquent taxes, the legislation clarifies that costs which may be recovered include title examination expenses, certified mail expenses, reasonable attorney's fees, or other such necessary research expenses. **Status: Signed by the Governor on April 29, 2009.**

#### **DID NOT PASS**

**House Bill 66—Municipal Option Sales Tax:** This legislation authorizes cities in Georgia to impose a 1 percent sales tax, subject to local referendum, for water and sewer purposes. If general obligation (GO) debt is issued in conjunction with the sales tax, the tax would expire with the repayment of the bonds. If no GO debt is issued, the tax can levied for a maximum of five years. The tax may be re-imposed if approved by the voters. In subcommittee, the bill was amended to apply only to the City of Douglas for water and sewer purposes and the City of Richland for water and gas purposes. **Status: Failed to pass this year and is pending in the House Ways and Means Committee.**

**House Bill 356 and House Bill 458—Private Collection of Local Sales Taxes:** This legislation allows counties, cities and school systems to jointly contract for the self collection or private collection of local sales taxes. Businesses would remit their sales tax returns and payments to a central location, but the private or self-collector would have access to that information in order to process and distribute the revenue to local governments. All audit functions would remain with the state. **Status: Failed to pass this year and is pending in the House Ways & Means Committee.**

**House Bill 480 – Vehicle Title Fee:** This legislation passed the House but did not get considered in the Senate, though it is still alive for next session. This bill would eliminate the ad valorem taxes and sales taxes on motor vehicles titled after 2009 and replace them with a 7% title fee for all vehicles titled, including casual sales. The 7% title

fee would be divided between the state and local governments. **Status: Failed to pass this year and is pending in the Senate Finance Committee.**

**Senate Bill 206 – Annual Review of Tax Exemptions:** This legislation would require the inclusion of a report of the cost of all sales tax and state tax exemptions as part of the state's annual budget submission. The report would include, at a minimum, details for each tax exemption to include tax revenues foregone for at least a three-year period, the statutory citation or other legal authority for the exemption, the year it was enacted or became effective, a statement of the intended objective of the exemption, an analysis of whether the exemption is achieving its objective and the effect of the exemption on the distribution on the state's overall tax burden. **Status: Failed to pass this year and is now pending in the House Appropriations Committee.**

**Senate Resolution 453 – Georgia Tax Reform Commission of 2009:** This legislation would create the Georgia Tax Reform Commission of 2009 to study Georgia's revenue structure. The commission would be encouraged to seek the cooperation and assistance of GMA, ACCG and other interested organizations. **Status: Failed to pass this year and is pending in the House Ways & Means Committee.**

## TRANSPORTATION

### PASSED

**House Bill 101 – Asbestos Utility Pipes in Rights-of-Way:** This legislation provides that when a city, county, consolidated government, or local authority abandons asbestos utility pipes in the state right of way, the owner of the utility pipe will have the discretion to 1) Remove and dispose of the asbestos pipe in accordance with federal laws and regulations; (2) Leave the asbestos pipe in place and fill it with grout or other similar substance designed to harden within the pipe; or (3) Allow the pipe to remain undisturbed in the ground and take no further action. The bill further provides that DOT or any local government or authority may request that abandoned asbestos pipes be marked in order to be locatable. **Status: Signed by the Governor on April 30, 2009.**

**Senate Bill 200 – Gubernatorial and Legislative Control of Motor Fuel Expenditures:** This legislation provides comprehensive changes to the way the motor fuel taxes are spent and the way the Department of Transportation is governed. The DOT Board is elected in the exact same manner as is currently, and the bill provides for a new director of planning to manage a new planning division within the DOT.

The planning director would be appointed by, and serve at the pleasure of, the Governor. The duties of the director are to develop annual capital construction project lists to be reviewed by the Governor and submitted to the General Assembly for consideration in the budget. The director also is charged with submitting the state transportation improvement program and statewide strategic transportation plan to the Governor and then the DOT Board for approval. **Status: Signed by the Governor on May 14, 2009.**

## **DID NOT PASS**

**House Bill 277 & House Resolution 206 – Transportation Funding:** The Senate proposed a constitutional amendment that would have allowed for regional referenda for the imposition of up to a 1% sales tax for local or regional transportation purposes. The House preferred a 1% statewide sales tax if approved by a Constitutional Amendment to be used on projects and programs all across Georgia. **Status: Failed to pass this year and is pending in a House/Senate Conference Committee.**