

## 2010 LEGISLATIVE SUMMARY

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### Anatomy of a Legislative Session

Each legislative session has three distinct yet equally important segments:

1. The Slumbering and Lumbering First 20 Days
2. The Sprint to Crossover Day
3. The Light at the End of the Tunnel – Is It a Train or Sine Die?

The 2010 legislative session – the longest session in modern history - was a little different. First, it is election year for all of our statewide elections. Second, the state's continued flat or declining revenues made the budget an even bigger issue than normal. These two issues will shape the dialogue under the Gold Dome for the near future.

#### 1. The Slumbering and Lumbering First 20 Days

In the second year of our two-year session, we focus on working every issue left over from the previous session, including legislative study committees, and new “ideas” legislators discovered in the interim. While the first days of the session seem to just lumber along with little activity on the floor of each house, the slumber quickly wears off as the schedule of committee meetings increases.

This year, left over items from the 2009 session included de-annexation, utility pole attachment fees, cell tower locations, goats and chickens in the back yard, mobile home locations that bypass local zoning rules and regulations, and the perennial red light camera defense. The GMA staff worked well over 100 bills that eventually did not move but nevertheless took time and political capital to stop or redirect.

#### 2. The Sprint to Crossover Day

The second segment of the session is getting to “crossover day”, Day 30 of the session, where bills must theoretically cross over from one chamber to the other in order to remain alive. Some of the more dangerous pieces of legislation that did not make the deadline in 2010 included property assessments caps, de-annexation and limitations on franchise fees. A number of good bills for cities, however, did make it past the deadline. In particular, one bill to improve sales tax collections and another to capture the sales tax on remote sales (catalog and Internet transactions).

### **3. The Light at the End of the Tunnel – Is It a Train or Sine Die?**

The final stages of every legislative session is marked with hurried committee meetings, conference committee reports and the ever-dangerous process of finding a “vehicle” for measures that have stalled or did not make the crossover deadline. This year was no exception. When day 40 came for the session, GMA was tracking, blocking, pushing and redirecting over 50 bills. Some of these included the elimination of ad valorem and sales tax from automobiles, a LOST baseball arbitration process and a mechanism to improved sales tax collections. In the end, that proverbial light at the end of the tunnel was not a fast moving train. The session ended up being a good one for cities and Sine Die came just at the right time.

#### **Ingredients for Legislative Success - Information and Relationships**

With the conclusion of the 2010 legislative session, GMA District Spring Listening Sessions serve as a reminder that for GMA to be successful, and for city issues to be given fair treatment at the capitol, city officials from every region of the state need to get involved and build relationships with their members of the General Assembly.

GMA’s **Hometown Connection** program is one way to start this relationship. The more legislators know about your city, the better they will understand what you and your city have to deal with. The most important thing to do is to open up those lines of communication now and keep them open throughout the year.

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## **COMMUNITY DEVELOPMENT**

Chair: Mayor Pro Tem Edna Jackson, Savannah

### **PASSED**

#### **HB 68 – Telecommunications Competition**

This legislation provides for revisions to intrastate access rates and eliminates the Universal Access Fund that may cause increases in local rural telephone rates.

#### **HB 540 – Elections**

This legislation allows municipalities to use residents or employees as poll workers during the election cycle. Further it allows for "volunteers" who are appointed to serve as poll officers and who agree to perform the duties of manager or clerk without compensation. This legislation also gives the Governor the authority to seek preclearance of any change affecting voting including the authority to institute litigation on behalf of the state and to designate legal counsel for the state in such case. This change is an attempt to circumvent the AG for lawsuits against the federal government.

**HB 1007 – Sale of Property to City by City Officials**

This legislation raises the amount of personal property that can be purchased from an official or employee to \$800 per calendar quarter and specifically states that such transactions excepted from the criminal penalties are valid and do not subject the employee or official to civil liability.

**HR 1435 – Hotel-Motel Tax Study Committee**

This resolution establishes the House Study Committee on Hotel-Motel Tax composed of five members of the House and authorizes the study committee to appoint an advisory committee. The advisory committee is to have one representative each from GMA and ACCG in addition to other associations and several state departments. The study committee is tasked with performing a comprehensive study of administration, collections, accounting and expenditures under the state's hotel-motel statute.

**SB 17 – Ethics: Comprehensive Reform**

This legislation contains provisions that modify ethics disclosure filings for municipal candidates and officials that are significantly different than current law. Specific information is available on the GMA website and Legislative Tracking system.

**SB 432 – Advanced Broadband Collocation Act**

This bill establishes procedural standards for modifying or collocating existing wireless facilities and removes some of the application procedures at the local zoning board level. The bill also gives local zoning boards 90 days to approve or disapprove the application and 30 days to notify the applicant that more information is needed, once the application has been submitted.

**SR 277 – Georgia Trauma Trust: Charge on Vehicle Registration**

This Constitutional Amendment, if approved by the voters in the 2010 General Election, would impose a \$10 annual charge on all motor vehicles licensed and registered in Georgia and will dedicate the funds raised to fund the Georgia Trauma Trust Fund.

**DID NOT PASS or VETOED BY GOVERNOR**

**HB 1251 – Revenue Bond Law: Tourism Development**

This legislation allows a local government to enter into an agreement under which the sales and use tax proceeds collected by a new tourism attraction project are retained by that project for the purpose of economic development. **Vetoed by Governor.**

**SB 192 – Cell Tower Siting Restrictions**

This legislation would have provided that in deploying or expanding wireless networks, existing towers shall be preferred over the construction of new towers or support structures. Additionally, further preference must be given to neutral third-party infrastructure providers.

**SB 328 – Pole Attachments: Utilities**

This legislation would affect how pole attachment agreements in Georgia are negotiated. The legislation would have given cable companies the ability to attach their lines to municipal poles at a below market rate, forcing customers of municipal electric systems to subsidize the bills of cable customers.

## **ENVIRONMENT AND NATURAL RESOURCES**

Chair: Mayor Deke Copenhaver, Augusta

### **PASSED**

#### **HB 244 – GEFA: Return Funds to State**

This legislation will allow the Georgia Environmental Facilities Authority to send funds back to the state treasury as the result of securitizing its Georgia Fund loan portfolio. The bill also changes the name of the "Georgia Environmental Facilities Authority" to the "Georgia Environmental Finance Authority" in all places in which the name appears throughout Georgia Code.

#### **HB 406 – Drinking Water Projects: Service Delivery Strategies**

This legislation allows a proposed drinking water supply reservoir that has applied for a federal Section 404 permit to be permitted and to receive state financial assistance, even though it is not included in a verified service delivery strategy. However, within one year after the reservoir becomes operational, the local governments and authorities in the affected county or counties must update their service delivery strategy to be consistent with water supply arrangements resulting from the operation of the reservoir.

#### **HB 1059 – Solid Waste Management**

The bill would allow minor permit modifications when an existing, permitted landfill creates a composting facility on-site.

#### **HB 1388 – Development Authorities: Energy Efficiency Loans**

This legislation would authorize downtown development authorities and city or county development authorities to provide financing to property owners for the purpose of installing or modifying improvements to their property in order to reduce the energy or water consumption on such property or to install an improvement to such property that produces energy from renewable resources.

#### **SB 370 – Water Stewardship Act of 2010**

This legislation would require various state agencies which have roles in water management to identify and provide for regulations, incentives and assistance to guide water conservation efforts in the state. The various state agencies would have milestones to report on the incentive programs, each agency's goals and policies adopted to support water conservation.

#### **SB 380 – Reservoirs: GEFA**

This legislation would authorize the Georgia Environmental Facilities Authority to make grants to local governments for expanding existing permitted reservoirs based on criteria which include the following: 1. the effect of the recurring drought on the region; 2. interconnectivity of the requesting local government's utility with other systems; 3. facilitating public-private partnerships; and 4. unique regional conditions.

This legislation would also require engineering plans for connecting water utilities throughout the Metropolitan North Georgia Water Planning District and the development of an emergency plan to implement interconnections no later than July 31, 2011.

The bill also includes language establishing criteria that the Environmental Protection Division would have to follow for new or increased inter-basin transfers of water. Intra-basin transfers of water would also have to meet certain criteria in order to be permitted.

**SB 390 – Local Government: Conservation Easement & Leasing of Public Property**

This legislation would allow a city to place municipally owned property directly into a conservation easement without having to dispose of the property through prescriptive public sale provisions. In addition, the bill allows for cities to lease real property to private parties for up to five years (with a renewal period of five years) under certain conditions.

**DID NOT PASS or VETOED BY GOVERNOR**

**HB 316 – Storm Water Utility Fees**

This legislation would have exempted state government facilities from the obligation to pay storm water utility fees imposed by any county, municipality, or local government authority.

**HB 1301 – Inter-basin Transfer Restrictions**

This legislation would have limited and placed rigorous criteria into law to continue or permit new inter-basin transfers of water and would have also counted groundwater as potential inter-basin transfers.

**MUNICIPAL GOVERNMENT**

Chair: Mayor Keith Brady, Newnan

**PASSED**

**HB 122 – City and County Budgets: Post on Website**

This legislation would require all city and county governments that have a budget greater than \$1 million to send its current budget electronically to the Carl Vinson Institute of Government (CVIOG) for posting on the Internet. The information posted would allow the public to view and analyze the information identified on municipal financial operations and the means to finance expenditures to carry out those services. Also, this bill requires that at the close of the annual audit, a copy of the audit shall be transmitted electronically to the CVIOG for posting.

**HB 516 – Industrialized Buildings: Exempt Local Ordinances**

This legislation would require industrialized buildings to meet state minimum code and prohibit local governments, by local ordinance or regulation, from excluding residential industrialized buildings from being sited solely because it is an industrialized building.

**SB 339 – Allowance for Utility Contractors' Bidding**

This legislation permits any utility contractor holding a valid utility contractor's license to bid for and perform work on any utility system in the state without obtaining a Residential and General Contractors license.

**SB 384 – Pre-owned Manufactured Homes**

This legislation provides that no pre-owned manufactured home that is relocated from one location to another location shall be inspected by local governments. Zoning and land use regulations are still enforced by local governments. Local governments cannot prevent manufactured homes from being relocated simply due to the "age of the home." Local governments and building inspectors cannot be held liable for problems after inspections.

**DID NOT PASS or VETOED BY GOVERNOR**

**HB 48 – Franchise Fees: Convert to Tax**

This legislation would have converted the municipal franchise fee into a tax, thereby invalidating all municipal franchise agreements in the state.

**HB 1203 – Franchise Fees: Offset SDS obligations**

This legislation would have required that utility franchise fees be used to offset any service obligation the county has to city residents indentified in the service delivery strategy.

**HB 558 – De-annexation**

This legislation would have allowed areas that have been annexed within the last 2-5 years that are contiguous to the unincorporated area of the county to be de-annexed upon written application of land owners and resolution of the county.

**HB 831 – Audits: Failure to Perform**

This legislation provides that if a city has not entered into a contract to perform its annual audit, Local Option Sales Tax (LOST) funds would have been withheld by DOR to pay for the cost of the audit and any penalties. GMA's opposition to this bill was not to condone poor management by a city for failing to submit an audit in a timely fashion, but rested in the highly dangerous precedent of allowing the state to withhold local sales tax dollars.

**SB 345 – Rules of the Road: City Sanctioned Street Racing**

This legislation would have authorized cities to sanction street racing on city streets and at the request of GMA would have also provided cities with immunity.

**PUBLIC SAFETY**

Chair: Mayor Willie Burns, Washington

**PASSED**

**HB 1196 – Preempt Municipal Fire Safety Ordinances**

This legislation would preempt all municipal ordinances that require sprinklers to be installed in new single family housing. According to fire professionals, these ordinances are one of the single greatest things municipalities can do to prevent fire deaths.

**SB 308 – Concealed Weapons: Changes to Public Prohibitions**

This legislation makes changes to existing law that makes it a crime to carry concealed weapons into certain places. Under the final version of the bill, holders of permits to carry concealed

weapons would still not be allowed to carry weapons into city buildings, except for city buildings that don't house agencies that are located in parks.

**SB 364 – Massage Parlors: Local Authority**

This legislation contains language clarifying that local governments may regulate massage parlors.

**SB 458 – Seat Belts in Pickup Trucks**

This legislation would remove the exception from the state's mandatory seat belt law for pickup trucks. Eliminating this loophole may result in lower insurance rates, reduce trauma cases burdening public safety response, and free up potential federal transportation funding.

**DID NOT PASS or VETOED BY GOVERNOR**

**HB 31 – Red Light Cameras**

This legislation originally would have repealed red light camera program.

**HB 124 – Georgia Public Safety Training Center**

This legislation would have required that newly elected municipal officials attend a course on public safety training in addition to the existing training already required.

**HB 328 – Vehicle Towing Fees**

This legislation would have authorized the PSC to regulate the charges for towing of vehicles from public roads and storage of the vehicles, limiting city authority.

**HB 615 – Firearms: Carrying Concealed Weapons**

This legislation would have repealed the current law which makes it a misdemeanor offense to carry a concealed weapon into a public building, bar, church, non-secure portion of the airport, political rally, sporting event, or other public gathering.

**HB 1236 – Municipal Court Judges: Attorneys**

The 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. Vetoed by Governor.

**HB 1321 – E911 Funds for Interoperable Equipment**

This legislation allows funds from an Enhanced 911 system fund to be used for the purchase of equipment to facilitate interoperability. If a county chooses to use funds in this manner for its agencies, it must reimburse the fees paid by city citizens pro rata by population. Vetoed by Governor.

**SB 291 – Concealed Weapons: Clarifications and License Renewal**

This legislation clarifies that someone with a concealed weapons permit may carry a firearm in their vehicle while dropping off and picking up passengers at airports and airport facilities. The bill also provides that the probate courts will send out renewal notices to permit holders rather than require them to come to the courthouse to reapply for a new license. The bill further provides that government agencies may not confiscate or require registration of firearms during states of emergency unless they are doing so for evidence collection. **Vetoed by Governor.**

### **SB 295 – Prohibit Municipalities: Federal Roads**

This legislation would have prohibited city police from using speed detection devices to enforce speeding laws on federal Interstates in Georgia, thus rendering city police unable to enforce the law and protect the public on federal Interstates and roads that are a part of the National Highway System in their cities.

The legislation would have also required every local law enforcement agency to annually submit to the Department of Community Affairs a report indicating how much fine revenue they collected from tickets issued for speeding from 11 to 17 miles per hour over the limit as well as submit a copy of their budget. This would be in addition to existing annual reports that already identify fine and forfeiture revenue received and expenses made on public safety agencies.

### **SB 318 – Civil Practice: Police Lawsuit**

This legislation would have required that plaintiffs seeking to file suit against a peace officer to obtain an expert affidavit indicating that in the opinion of the expert, the officer committed professional malpractice. Language in the bill seemed to contemplate suits against law enforcement officers for discretionary acts, and requires that law enforcement officers that could be the bad actor in a lawsuit against the city sign a settlement agreement. Furthermore, the bill would have exempted suits by law enforcement officers in employment actions against their supervisors (police chiefs) from the affidavit requirement, but counterclaims and actions against former employees would have been covered by the affidavit requirement.

### **SB 373 – Peace Officers: Background Certification**

This bill would have provided that individuals supplying employment history information on candidates for employment as peace officers would receive a liability waiver from the applicant. Thus, this measure will encourage the candid sharing of information about potential law enforcement officers. **Vetoed by Governor.**

## **REVENUE AND FINANCE**

Chair: Mayor Mike Bodker, Johns Creek

### **PASSED**

### **HB 991 – LOST Negotiation: Arbitration Process**

This legislation provides a mechanism to resolve disagreements over allocation of local option sales tax proceeds. When renegotiation is required, the parties may engage in arbitration or mediation and if that is unsuccessful, may then file a petition in court. The county and cities representing at least one-half of the municipal population each file a proposed distribution formula with the court and the judge selects one. The intent of this legislation is to encourage the parties to negotiate reasonably and come to agreement without the necessity of going to court or one party letting the tax lapse.

### **HB 1055 – Fees: State Requirements**

This legislation increases the amount paid on several fees that are currently in statute. It is estimated that these changes will bring in \$90 million to the state. There are over 70 sections of code in which a fee was increased.

### **HB 1069 – Income Tax Credit: Energy Efficient Equipment**

This legislation provides for an income tax credit of \$2500 or 25% of the cost of energy efficient products, only if stimulus funds are made available.

### **HB 1093 – Sales Tax Information: Sharing Data with DOR**

This legislation allows for the voluntary submission of occupational tax information to the Department of Revenue (DOR) in an effort to identify businesses that do not pay their sales tax. The bill requires businesses who apply for a business license to provide their name, mailing address or the physical address if they have a post office box, and their sales tax identification number. The city will be responsible for submitting that data to the Department of Revenue within 30 days. DOR will establish a web portal for local governments to submit the data. This bill will only apply to a city or county that adopts an enacting resolution.

### **HB 1221 – Streamlined Sales Tax**

This legislation changes many definitions in the code for Georgia to come into compliance with the Streamlined Sales Tax Agreement in order to collect remote and Internet sales tax. This bill will allow for Georgia to collect sales tax from transactions done via the internet or catalog. Remote and on line retailers voluntarily submit sales tax in exchange for immunity against any pending nexus lawsuits. Twenty three other states have adopted this type of legislation. North Carolina received \$19 million in 2009 from the streamlined sales tax agreement. It's estimated that Georgia will receive \$20-30 million per year.

### **SB 206 – Annual Review of Tax Exemptions**

This legislation would require a regular accounting of tax breaks to bring more transparency and accountability into tax decisions by requiring a report of the cost of all sales tax and state tax exemptions as part of the state's annual budget submission. The report must include the following information:

- details for each tax exemption;
- tax revenues foregone for at least a three-year period;
- the statutory citation or other legal authority for the exemption;
- year it was enacted or became effective.

As Georgia faces a \$4 billion budget, this legislation provides an opportunity to review tax relief provisions and understand the financial ramifications of existing and proposed expenditures. Although tax expenditures have the same potential to impact revenue, currently only budget items face annual scrutiny and performance measures. Thirty-nine states currently require the transparency that SB 206 would provide.

### **SB 346 – Overhaul of Property Assessment and Appeals Process**

This legislation makes numerous changes to the state's property tax assessment and appeals process. Major changes include:

- Every property owner will receive an annual notice of current assessment regardless if the property value has changed or not.
- The annual assessment notice shall contain an estimated tax bill. This estimate may or may not contain all the eligible exemptions.
- After a property owner receives their annual assessment they would have 45 days to file an appeal of assessed value instead of 30 days.
- Two or more counties, by an intergovernmental agreement, may establish a regional Board of Equalization.
- Non residential properties worth over \$1 million in value may choose to have their appeal heard by hearing officer. The hearing officer must be either a state certified general real property appraiser or state certified residential real property appraiser and be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.
- The Department of Revenue shall update the courses of instruction for members of Boards of Equalization.
- The sales price of the most recent arm's length bona fide sale in any year shall be the maximum allowable fair market value for the next taxable year.
- The determination of fair market value of a real property shall not include the value of intangible assets.
- Cities and counties may by resolution or ordinance elect to receive payment for as valorem taxes in any form of payment.

## **DID NOT PASS or VETOED BY GOVERNOR**

### **HB 480 – Motor Vehicle Title Fee**

This legislation would have eliminated the sales tax and ad valorem tax on motor vehicles titled in Georgia after January 1, 2011 and created a 6.75% one-time title fee.

### **HB 1082 – Freeport Inventory Tax Exemption**

This legislation establishes a second Freeport exemption for all inventory not covered under the current Freeport exemption. First, it must be approved by the voters and then a municipality must pass a resolution to exempt from taxation 20 percent, 40 percent, 60 percent, 80 percent, or all of the value of inventory. **Vetoed by Governor.**

### **HR 1 – Property Assessment Cap**

This Constitutional Amendment would have capped assessment increases on all property at 3% or CPI, whichever is less and called for statewide local referenda by 2012.

### **HB 1188 – DOR: Law Enforcement Officers**

This legislation allows the commissioner of the Department of Revenue to appoint up to eight certified law enforcement officers as special agents to enforce the criminal laws of the state on tax matters.

### **SR 964 – Double Taxation: Prohibit**

This Constitutional Amendment would have prohibited counties from double-taxing municipal residents. The resolution states that no county can levy a property tax or assessment within a city to pay for a service provided by the city. This constitutional amendment would make the payment of taxes and receipt of services more fair and transparent for all taxpayers.

## **TRANSPORTATION**

Chair: Mayor Boyd Austin, Dallas

### **PASSED**

#### **HB 277 – Transportation Investment Act of 2010**

This legislation establishes special district tax regions based on the existing boundaries of the state's 12 regional commissions to call for a 10-year transportation tax. It establishes a regional transportation roundtable with at least one city official and one county official from each county on the roundtable.

#### **HB 1135 – Department of Transportation: Multi Year Contracts**

This legislation allows the Department of Transportation to use the accrual accounting method for projects versus the current cash method. It will authorize the department to enter into multiyear contracts subject to certain terms and conditions and provide that any such contract shall terminate at the close of each fiscal year and may be renewed only by positive action of the department.

#### **SB 354 – Abandonment of City Roads**

This legislation would authorize cities and counties to abandon a road if a determination is made that such action is in the best public interest.

### **DID NOT PASS or VETOED BY GOVERNOR**

#### **SB 519 – Motorized Carts**

This legislation increases the weight limit in the definition of "motorized cart" from 1,300 pounds to 2,500 pounds; and provides that these vehicles cannot be operated on streets before sunrise or after sunset unless the cart is equipped with lights, turn signals, and a windshield. The bill also allows local governments to decide whether operators of motorized carts must be licensed drivers. **Vetoed by Governor.**