



Contact Person Regarding This
Matter:

Russell K. Paul
404.873.8672 - direct
404.873.8673 - fax
russell.paul@agg.com

GEORGIA LEGISLATIVE UPDATE

Friday was Crossover Day in the General Assembly. It's the session's most tedious, challenging and, for a legislator fighting to get a pet bill passed, frustrating day. The 30th legislative day—Crossover Day—is the point where a bill must win approval in at least one chamber to be enacted this year. Legislation flies through with only minutes of debate as leaders in both chambers work to clear as many issues as possible, while simultaneously killing infinitely more bills whose time, they determine, has not come.

Throughout the long, 12- to 14-hour day, legislators are pressing those leaders who control floor activity to “please bring up my bill.” It is the session's most intense lobbying period, as legislators and lobbyists work feverishly to keep bills alive or help them slip silently away.

Legislators unable to get their bills to the floor must now look for bills that they can amend to keep their legislative ideas alive. They will be scouring the bills that remain for amendment “vehicles,” hoping to persuade their colleagues to adopt their proposals as amendments to other bills rather than standalone legislation.

Here is how major issues fared on Crossover Day.

Water Policy

- Long before Crossover Day, the House and Senate each passed separate water stewardship bills this week. The Senate passed its legislation 52-0; the House passed its legislation 166-5. A few minor differences must be reconciled before it goes to the governor for his signature. This legislation is a major step in helping Georgia resolve its disagreements with Florida and Alabama over water allocation in the Chattahoochee and Etowah/Oostanaula river basins.
- Meanwhile, three other water bills were pending on Crossover Day:
 1. The Senate approved **SB 442**, which requires the Georgia Environmental Facilities Authority to conduct a region-wide engineering study and develop a region wide emergency water plan for Metro Atlanta
 2. **SB 462**, which allows the Department of Natural Resources to permit interbasin water transfers, died when the Senate failed to take it up
 3. **HB 1301**, a competing bill, that bans interbasin transfers also died.

Milton County

- It was teed up for a vote that never happened. Milton advocates acknowledged late Friday they lacked the votes for a constitutional amendment carving Milton County out of north Fulton. One Northside newspaper blamed the failure on Rep. Edward “Buckhead Ed” Lindsey and an unholy alliance of Atlanta liberals, but a variety of rural Republicans and urban Democrats doubted whether Georgia currently needs another county.

Healthcare Policy

- **HB 850**, which created a new “assisted living” level of care for Georgia’s seniors, failed to survive Crossover Day. Current law recognizes two levels of care: personal care homes and skilled nursing facilities. The bill would have created a third level of care called “assisted living” that would have created an intermediary level between the existing service tiers in state law.
- Meanwhile, the House approved Governor Perdue’s hospital bed tax to help fund the \$500 million Medicaid deficit. The package contained a compromise rate of 1.47 percent rather than 1.68 percent per patient per day. In addition, a 1.68 percent fee will be tacked on to health maintenance organization (HMO) premiums to provide the additional funds to close the Medicaid gap.

Budget

- Once the hospitals surrendered on the bed tax, budget writers went into high gear finalizing the supplemental budget for this fiscal year and the proposed budget for fiscal year (FY) 2011. The new revenue helps fill the budget hole, but additional cuts of approximately \$500 million still must be made. A House/Senate conference committee will reconcile the FY 2010 budget quickly and the Senate will also fast forward the FY 2011 as legislators prepare to wind up this year’s session.

STATUS OF MAJOR LEGISLATION AFTER CROSSOVER DAY

Construction

- **HB 595:** Required residential contractors to disclose upon discovery any defects found during construction. **DIED**
- **HB 700:** Last year’s highly controversial effort to move oversight of Georgia Board of Regents construction to the Georgia State Finance & Investment Commission (GSFIC) seems stalled in the Senate. In conversations with the Regents, Senator Ronnie Chance has indicated he has no plans to bring the bill out of his committee. The lead proponent of the change, Representative Earl Erhardt, also suggested to the Regents that he “has moved on” to other issues. **PASSED THE HOUSE / IN THE SENATE FINANCE COMMITTEE**
- **HB 953:** Creates a sales tax exemption for the use of energy and water saving devices in construction. **DIED**
- **HB 975:** To spur residential construction, each newly-constructed single-family residence offered for sale by a residential contractor is granted an exemption for the residence’s full value from all *ad valorem* taxes in the first year after it is sold. **DIED**

- **HB 1048 / SB 417:** A Senate version of this bill was introduced this week. Both versions require that all deeds on a residential or commercial structure must carry a certification by a person employed by a licensee under Chapter 45 of the Official Code of Georgia Annotated (OCGA) Title 43 that the structure has been inspected for termites and other wood-destroying organisms and stating the results of that inspection. This certification must be delivered to each purchaser prior to or at the time of the conveyance. **SB 417 PASSED THE SENATE / HOUSE BILL DIED**
- **HB 1076 / HR 1293:** Repeals the state's general contractor licensing law and the companion resolution creates a study committee to investigate the benefits of regulation/deregulation of residential and commercial general contractors. **DIED**
- **HB 1206:** Requires contractors drilling geothermal boreholes to have a water well contractor's license. **PASSED HOUSE / IN SENATE COMMITTEE**
- **HB 1359:** Exempts shoreline stabilization projects to prevent the erosion of the shoreline into a lake operated by the United States Army Corps of Engineers or a utility regulated by the Federal Energy Regulatory Commission from some regulatory requirements for the duration of construction. **PASSED HOUSE / IN SENATE COMMITTEE**
- **SB 339:** Allows a contractor with a utility contractor's license to work on utility projects anywhere in Georgia without having to acquire a general contractor's license. **PASSED SENATE/IN HOUSE COMMITTEE**
- **SB 362:** This bill changes state lien law and eliminates the state's affidavit of non-payment requirements. Bill was amended in committee to require mailed notice of non-payment by subs to the GC at the 60-day mark on non-payment, with no filings at the courthouse required. Lien rights at the completion of the project would be unaffected. **PASSED SENATE / IN HOUSE COMMITTEE**
- **SB 370 / HB1094:** The governor's water conservation legislation that requires water-saving devices in all residential and commercial construction permitted after July 1, 2012. **APPROVED SENATE AND HOUSE / AWAITING GOVERNOR'S SIGNATURE**
- **SB 447:** Gives Georgia contractors, suppliers and vendors preference in state-financed construction projects, so long as price and quality are not sacrificed. A reciprocity amendment was made by the committee to give out-of-state contractors the same preferences as Georgia contractors are afforded in their home state. **PASSED SENATE / IN HOUSE COMMITTEE**
- **SB 460 / HB 1164:** Sets stiff penalties for all contractors (including subs at all tiers) on all publicly-financed projects failing to be eVerify-compliant at the time of bids are submitted. **BOTH DIED**

Economic Development

- **HB 881:** Corrects unintended consequences of previous legislation that led to a Supreme Court decision that appeared to bring local economic development authorities into a referendum requirement for approval of bonds. The author is rewriting portions of the bill to deal with some committee objections. **DIED**
- **HB 1249:** This bill attended to "level the playing field" for statutory development authorities by allowing cities and counties to directly abate taxes on a project without involving their local development authority. **DIED**

- **SB 186:** Allows a tax allocation district to include all or part of the property taxes levied in the computation of tax allocation increments if the administrative body of community improvement district passes an enabling resolution. **DIED**
- **SB 374:** Creates a special legislative economic development council to provide oversight for the state's economic development and business recruitment efforts. Comprised of House and Senate members, the council is charged with reviewing current goals, tax exemptions, credits, departmental activities, expenditures, policies, regulations and even other (read "local") entities. The council will also review proposed legislation and activities of other states to make recommendations on policies and legislation needed. **PASSED THE SENATE / APPROVED BY HOUSE COMMITTEE / AWAITING HOUSE FLOOR VOTE**

Employment

- **HR 178:** A constitutional amendment enforces employment contracts that restrict competition during or after the term of employment or of a commercial relationship, so long as such contracts are reasonable in time, geographic area and line of business. **PASSED HOUSE / IN SENATE COMMITTEE**
- **HB 887:** Exempts any employer from civil liability who, upon request of a prospective employer or a current or former employee, provides accurate information about a current or former employee's job performance or reasons for separation. **DIED**
- **HB 1277:** Makes it unlawful to discriminate in hiring based on credit history or credit report information. **DIED**
- **SB 148:** Authorizes a periodic review of existing occupational regulatory entities to ensure that the authority of such regulatory entities are relevant to the current state of professional and business conditions. It creates an occupational regulatory review council to recommendation changes in state employment law. **PASSED THE SENATE / NOW IN HOUSE REGULATED INDUSTRIES COMMITTEE**
- **SB 433:** Prohibits employers from requesting credit reports on employees except in very specific situations. **DIED**

Environmental

- **SB 78:** Encourages voluntary and timely investigation and remediation of properties where releases of regulated substances into the environment have occurred. **PASSED SENATE / IN HOUSE COMMITTEE**

Financial Services

- **HB 926:** The first bill this session approved by both chambers and signed by the governor, this law exempts certain loan restructures and renewals from the maximum amount one person or corporation can borrow from a bank after the institution has exercised reasonable efforts to bring the loan into conformance. Current state law restricts a state chartered bank from lending more than 15 percent of its capital to any single borrower. This new law gives banks that may have declining capital on its balance sheet more flexibility in lending to state businesses. **SIGNED BY GOVERNOR**

Food Services

- **HB 883:** Requires Georgia food producers to provide a written food safety plan to the Commissioner of Agriculture, with the failure to do so resulting in a misdemeanor. Also, anyone knowingly violating Georgia's food safety laws, which results in the introduction into finished foods or finished food ingredients produced at a Georgia facility, is punishable as a felony, subject to not less than one nor more than 20 years in prison and a fine not to exceed \$20,000. These penalties are supplemental to any other applicable penalties. **PASSED THE HOUSE / NOW IN THE SENATE**
- **SB 326:** Requires food sales establishments to make toilet or washroom facilities available to purchasing customers if such facilities are present on premises. **DIED**
- **HB 941:** Amends Chapter 2 of Title 26 of the Official Code of Georgia relating to standards, labeling, and adulteration of food by repealing Article 11, relating to kosher foods, and designating this article as reserved. **DIED**
- **HB 1098:** Allows the sale of raw milk under regulations promulgated by the state Department of Agriculture. **DIED**
- **HB 1177:** Georgia Kosher Food Consumer Protection Act requires any person who sells any food represented to be kosher or kosher for Passover, other than food packaged in a sealed container obtained from a manufacturer, distributor, repackager, processor, slaughterhouse or other party and marked as kosher or kosher for Passover by an independent certifying individual or organization, must disclose the basis upon which that representation is made by posting the information on a sign in an open and conspicuous manner readily visible to the public upon the premises at which the food is being sold. **DIED**
- **HB 1345:** Georgia Kosher Foods Consumer Protection, virtually identical to **HB 1177** but authored by Republican Mike Jacobs. **PASSED BY HOUSE / IN SENATE COMMITTEE**

Gambling / *Pari-Mutuel* Betting

- **HR 1177:** A constitutional amendment to authorize *pari-mutuel* wagering on horse racing. **DIED**

Healthcare

- **HB 922:** Makes certain therapy services for sick or disabled children eligible for public assistance. **DIED**
- **HB 866:** Provides state funding to attract physicians to rural and other underserved areas. **PASSED HOUSE / IN SENATE COMMITTEE**
- **HB 897:** Changes state law regarding custodial relationships by clarifying that any employee of an educational institution, probation, parole or law enforcement officer, hospital/healthcare worker, psychotherapist or other state-licensed individual in a supervisory or disciplinary position who has sexual contact with someone who is either in their direct or the institution's supervisory or disciplinary custody is guilty of sexual assault regardless of consent. **DIED**
- **HB 850:** Creates a new level of care called "assisted living" that fills a purported gap between personal care homes and skilled nursing facilities. **DIED**

- **SB 300:** Increases penalties for sexual assault against persons in custody. (Unlike **HB 897**, this bill focuses primarily on teacher/student relationships.) **DIED**
- **SB 315:** Recognizes the registration of volunteer health practitioners licensed in other states and otherwise accommodates or manages volunteer health practitioners during officially declared emergencies. **PASSED SENATE / IN HOUSE COMMITTEE**
- **SB 334:** Creates the crime of medical identity fraud. **PASSED SENATE / IN HOUSE COMMITTEE**
- **HB 994:** Requires the Department of Community Health to develop a fee schedule to cover licenses of institutions and other health care related entities required to be licensed, permitted, registered or commissioned by the Department. **APPROVED BY HOUSE / NOW IN SENATE**
- **HB 999:** Adds the phrase “and other life-sustaining procedures” after “cardiopulmonary resuscitation” to Title 31 of the Official Code of Georgia governing the process of physician-issued do not resuscitate orders. **DIED**
- **HB 1014:** Extends the sales tax exemption for volunteer health clinics serving the indigent to 2013. The bill ran afoul of concerns that for-profit entities were creating non-profits clinics to acquire supplies and materials tax-free for use in the for-profit operation. **DIED**
- **HB 1038:** Creates an income tax credit for physicians who provide indigent care that is unreimbursed by Medicaid. The bill phases in over four years a tax credit up to \$4,000 or the amount the Medicaid would have paid—whichever is less. **DIED**
- **HB 1040:** Allows caregivers trained by a registered nurse to provide certain in-home health services to a patient. **PASSED HOUSE / NOW IN SENATE COMMITTEE**
- **HB 1061:** A hospital designated as Level I or II trauma center that maintains its designation may add certain clinical services without a Certificate of Need (CON), but in doing so must extend its trauma designation another 2.5 years. **DIED**
- **SB 329:** Requires insurance companies to allow insured to keep dependents on their group accident and sickness coverage up to age 25. **DIED**
- **SB 407:** Allows insurers to offer medical/surgical plans approved in other states that have a reciprocity agreement with Georgia. **PASSED SENATE COMMITTEE / IN HOUSE COMMITTEE**
- **SB 408:** Allows small employer health group cooperatives to provide medical/surgical insurance programs. **DIED**

Judiciary

- **SB 395:** Creates Mental Health Courts to handle criminal cases for defendants with mental illness or developmental disabilities. Criminal courts are empowered to send cases to these courts for adjudication. **DIED**

Renewable Energy

- **HB 691:** This bill excludes solar energy from the caps placed on the amount of peak renewable energy electric generating companies must purchase from suppliers. **DIED**
- **SB 147:** Sets renewable energy goals for the state’s utilities at five percent of its annual net

electricity sales by December 31, 2015; 10 percent by December 31, 2020; 15 percent by December 31, 2025; and 20 percent by December 31, 2030. **DIED**

Taxation

Note: Tax bills that did not pass by Crossover Day may be “technically” dead, but the House has passed a number of innocuous tax bills that can be used as “amendment vehicles,” so some of these may yet be passed.

- **HB 902:** Creates a special tourist district in downtown Atlanta and allows the City to assess a special-purpose sales tax within the district to fund public safety programs for the designated area. **DIED**
- **HB 903:** Extends the current sales tax for the indebtedness of the World Congress Center and Georgia Dome from 2020 to 2050 to fund construction of a new domed stadium in downtown Atlanta. **PASSED THE HOUSE / IN SENATE COMMITTEE**
- **HB 963:** A technical change in state tax law, which says property tax submissions must be returned “in person or by mail.” This bill simply strikes the words “in person or by mail” from the statute. **PASSED HOUSE / IN SENATE COMMITTEE**
- **HB 967:** Requires local tax officials to provide the new owner of a residence with the basic homestead exemption application when the property is conveyed to the new owner. **DIED**
- **HB 992:** Provides a tax credit up to \$1,200 for taxpayer contributions toward a local or neighborhood private security service for a single-family residence. **DIED**
- **HB 952:** Reauthorizes the annual preschool sales tax holiday from July 29 through August 1, 2010. **DIED**
- **HB 982:** Requires that within at least six months of, and no less than 30 days before, a tax levy, local tax commissioners must provide a balance due notice to the taxpayer by first-class mail addressed to the taxpayer’s last known address as shown on the department’s records. It also outlines the process commissioners must follow in garnishing a tax levy. **PASSED HOUSE / IN SENATE COMMITTEE**
- **HB 983:** Disallows deductions for certain expenses paid to captive factoring entities who purchase accounts receivables from related members. **DIED**
- **HB 984:** This technical correction clarifies that no local income taxes may be collected by the state or any political subdivision (county/municipality) of the state. **APPROVED BY HOUSE / IN SENATE COMMITTEE**
- **HB 985:** Creates an income tax refund check-off to allow contributions to a fund for education related to multiple sclerosis. **DIED**
- **HB 986:** These technical changes spell out the process the state Revenue Department must follow in seizing depositor funds subject to a state lien from a financial institution. The bill also sets out the process a financial institution must follow in reporting to the department the assets and other information requested. **DIED**
- **HB 1001:** Angel Investor Tax Credit bill, introduced as stand-alone legislation, **HB 1001**, and as part of the JOBS Act, **HB 1023**. The bill creates an income tax credit for investors who help create jobs in Georgia by providing capital for startup companies. **DIED, BUT CONTAINED IN HB 1023**

- **HB 1008:** Exempts from sales and use taxes any natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane, petroleum coke and coal used in manufacturing. **DIED**
- **HR 1023 / HR 1024:** The JOBS Act of 2010 incorporates eight initiatives within two bills to spur job creation in Georgia. Features include:
 1. Allowing Georgians to start a new business with no state fees for one year
 2. An income tax credit after two years of investment of up to 50 percent of an investment made in small or start up Georgia businesses with 20 or fewer employees
 3. For each eligible employee hired who is receiving state unemployment benefits, a company earns a quarterly credit towards their unemployment tax
 4. \$2,400 tax credit for hiring the most difficult to employ
 5. Elimination of the Net Worth Tax
 6. A triggered 50 percent reduction of the capital gains tax
 7. A gradual phase-out of the sales tax deposit on small businesses, which will return nearly \$200 million of working capital to Georgia's small business currently on hold by the state.
- **HB 1023 PASSED HOUSE / HR 1024 DIED**
- **HB 1028:** Permits a land owner with a forest conservation easement that is divided by natural or political boundaries a one-time election to declare the tract as contiguous. **APPROVED BY HOUSE / NOW IN SENATE**
- **SB 346:** Requires local governments to be more responsive to local citizens on property tax matters and gives taxpayers new tools for challenging property assessments. **PASSED SENATE / IN HOUSE COMMITTEE**
- **HB 1120:** Extends the current sales tax exemption for volunteer health clinics to 2012. **DIED**
- **HB 1145:** Creates a tax credit of 50 percent on investments in rail infrastructure (rail, bridge, tunnel replacement, locomotive leases, new intermodal facilities and other capital improvements). Unused credits may be carried forward up to 20 years. **DIED**

Technology

- **HB 171:** Adds email addresses obtained by local law enforcement for neighborhood watch or public safety programs to the list of information that governments do not have to disclose under open records. **PASSED HOUSE / APPROVED BY SENATE COMMITTEE / AWAITING SENATE FLOOR ACTION**
- **HB 263:** Requires any company providing in-home services to conduct a criminal background check on their employees working in a home. **DIED**
- **SB 388:** Allows notices required by law to be published either in a printed or electronic format. However, any notices required to be placed in a newspaper or required by law to be published in a specified manner must continue in the prescribed format. **PASSED SENATE / IN HOUSE COMMITTEE**
- **SB 432:** Prohibits local governments from adding new zoning, land use or special use permit requirements on applications for collocation or modification of a wireless communication structure or facility. Localities may only review for conformance with applicable site plan and building permit requirements, including zoning and land use conformity, but are barred from adding further zoning,

land use, or special use permit conditions beyond the initial zoning, land use or special permit requirement. **APPROVED BY SENATE / IN HOUSE COMMITTEE**

Trucking/Transportation

- **SR 821:** A constitutional amendment that allows the Georgia Department of Transportation to enter into multiyear construction contracts. **PASSED SENATE / IN HOUSE COMMITTEE**
- **HB 990:** Bars motor freight carriers from operating in Georgia unless they certify they meet the Federal Motor Carrier Safety Administration's minimum financial responsibility standards. **PASSED HOUSE / IN SENATE COMMITTEE**
- **SB 323:** Sets aside 30 percent of any privately-financed transportation project approved by the Georgia Department of Transportation for in-state contractor and small business participation. **DIED**

Utilities

- **SB 192:** The Wireless Communications Tower Siting Act requires local governments to act within 75 days on any completed request for the construction of a wireless communications tower and provides for judicial review if the applicant wishes to appeal the local government's decision. **DIED**
- **SB 328:** Requires electric utilities to provide cable companies nondiscriminatory access to electrical facilities (i.e. poles) at a just, reasonable rate. **DIED**
- **HB 276:** Prohibits any Georgia utility from using coal extracted using mountaintop removal mining processes. **DIED**
- **HB 362:** Prohibits public utilities from exercising the power of eminent domain unless it has obtained prior approval by resolution or ordinance from the municipality or county governing authority with political jurisdiction over the property. **DIED**

Workers Compensation

- **HB 1101:** Allows the Self Insurers Guaranty Trust Fund to release information on workers comp claims, provided adequate security measures have been taken to protect the identity and privacy of the parties. **APPROVED BY THE HOUSE**

Water Policy

- **SB 321:** Allows for privately-owned or -operated reservoirs for public water supply and allows private entities to propose construction of a public/private water reservoir to local jurisdictions. **APPROVED BY SENATE / IN HOUSE COMMITTEE**
- **SB 380:** Allows the Georgia Environmental Facilities Authority to make grants and loans to expand existing reservoirs. **PASSED SENATE / IN HOUSE COMMITTEE**

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