

House Bill 137

By: Representatives Sheldon of the 105th, Roberts of the 154th, and Burns of the 157th

A BILL TO BE ENTITLED
AN ACT

1 To amend provisions of the Official Code of Georgia Annotated relating to the Department
2 of Transportation; to amend Title 32 of the Official Code of Georgia Annotated, relating to
3 highways, bridges, and ferries, so as to change definitions; to clarify the term of the planning
4 director and eliminate the bonding requirement; to remove the requirement of including the
5 ZIP Code designation on official maps and lists; to clarify procedures for removing asbestos
6 pipe for utility facilities; to allow counties and cities to send updated information to the
7 department using geospatial information system files; to amend Title 33 of the Official Code
8 of Georgia Annotated, relating to insurance, so as to exempt the department from having to
9 provide accident reports to attorneys in certain situations; to amend Title 36 of the Official
10 Code of Georgia Annotated, relating to local government, so as to require cities to include
11 certain information in annexation reports; to provide that the department is not required to
12 obtain cemetery redevelopment permits except in certain instances; to amend Title 40 of the
13 Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to provide
14 that designees of the department may charge for accident reports; to require electronic
15 submission of certain accident reports by law enforcement agencies; to amend Title 50 of the
16 Official Code of Georgia Annotated, relating to state government, so as to provide that
17 government agencies cannot charge other government agencies for geographic information;
18 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
19 for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
23 is amended by revising paragraphs (24) and (30) of Code Section 32-1-3, relating to
24 definitions, as follows:

25 "(24) 'Public road' means a highway, road, street, avenue, toll road, tollway, drive,
26 detour, or other way that either is open to the public or has been acquired as right of way.

27 and is intended ~~or to be~~ used for ~~its~~ enjoyment by the public and for the passage of
 28 vehicles in any county or municipality of Georgia, including but not limited to the
 29 following public rights, structures, sidewalks, facilities, and appurtenances incidental to
 30 the construction, maintenance, and enjoyment of such rights of way:

- 31 (A) Surface, shoulders, and sides;
- 32 (B) Bridges;
- 33 (C) Causeways;
- 34 (D) Viaducts;
- 35 (E) Ferries;
- 36 (F) Overpasses;
- 37 (G) Underpasses;
- 38 (H) Railroad grade crossings;
- 39 (I) Tunnels;
- 40 (J) Signs, signals, markings, or other traffic control devices;
- 41 (K) Buildings for public equipment and personnel used for or engaged in
 42 administration, construction, or maintenance of such ways or research pertaining
 43 thereto;
- 44 (L) Wayside parks;
- 45 (M) Parking facilities;
- 46 (N) Drainage ditches;
- 47 (O) Canals and culverts;
- 48 (P) Rest areas;
- 49 (Q) Truck-weighing stations or check points; and
- 50 (R) Scenic easements and easements of light, air, view, and access."

51 "(30) 'Utility' means any publicly, privately, or cooperatively owned line, facility, or
 52 system for producing, transmitting, or distributing communications, power, electricity,
 53 light, heat, gas, oil products, water, steam, clay, waste, storm water not connected with
 54 highway drainage, and other similar services and commodities, including publicly owned
 55 fire and police ~~and traffic~~ signals and street lighting systems, which directly or indirectly
 56 serve the public. This term also means a person, municipal corporation, county, state
 57 agency, or public authority which owns or manages a utility as defined in this paragraph."

58 **SECTION 2.**

59 Said title is further amended by revising subsection (a) of Code Section 32-2-43, relating to
 60 the appointment and responsibilities of the director of planning, as follows:

61 "(a) There shall be a director of planning appointed by the Governor subject to approval
 62 by a majority vote of both the House Transportation Committee and the Senate

63 Transportation Committee. The director shall serve during the term of the Governor by
 64 whom he or she is appointed and at the pleasure of the Governor. ~~Before assuming the~~
 65 ~~duties of his or her office, the director shall qualify by giving bond with a corporate surety~~
 66 ~~licensed to do business in this state, such bond to be in the amount of \$500,000.00 and~~
 67 ~~payable to the Governor and his or her successors in office. The bond shall be subject to~~
 68 ~~the approval of the Governor and shall be conditioned on the faithful discharge of the~~
 69 ~~duties of the office. The premium for the bond shall be paid out of the funds of the~~
 70 ~~department. If the Governor's term expires, and the incoming Governor has not made an~~
 71 ~~appointment, the current director of planning shall serve until a replacement is appointed~~
 72 ~~by the incoming Governor.~~"

73

SECTION 3.

74 Said title is further amended by revising paragraph (2) of subsection (a) and by adding a new
 75 subsection to Code Section 32-4-2, relating to the official map of public roads and records
 76 pertaining thereto, as follows:

77 "(2)(A) The department shall prepare an official list of all portions or features of the
 78 state highway system, including without limitation public roads, bridges, or
 79 interchanges, which have been named by Act or resolution of the General Assembly or
 80 by resolution of the State Transportation Board. The department shall update the list
 81 to reflect any additions or changes as soon as is reasonably possible; and such list, as
 82 periodically revised, shall be open for public inspection. For each such named portion
 83 or feature of the state highway system, the list shall specify without limitation the
 84 official name; the state highway system route number; the name of each county ~~and the~~
 85 ~~number of each five-digit postal ZIP Code area~~ wherein the named portion or feature
 86 is located; a citation to the Act or resolution of the General Assembly or the resolution
 87 of the State Transportation Board officially naming such portion or feature; and a brief
 88 biographical, historical, or other relevant description of the person, place, event, or
 89 thing commemorated by such naming.

90 (B) The department may contract with a state historical society to make such list
 91 available in electronic format free of charge to Internet users, provided that any web
 92 page providing such list pursuant to this subparagraph shall be searchable without
 93 limitation by county name ~~or five-digit postal ZIP Code.~~"

94 "(g) For purposes of this chapter, state maps and written records shall only be maintained
 95 on public roads which are open to public travel."

SECTION 4.

96

97 Said title is further amended by revising Code Section 32-4-4, relating to removal of asbestos
98 pipe from utility facilities, as follows:

99 "32-4-4.

100 (a) As used in this Code section, the term 'entity' means a county, a municipality, a
101 consolidated government, or a local authority.

102 (b) Whenever existing utility facilities owned and operated by an entity contain asbestos
103 pipe and such ~~pipe facility~~ exists in the public rights of way of any highway, road, ~~bridge~~,
104 ~~or other transportation project or street~~ authorized pursuant to this title, and the entity
105 determines that such ~~pipe facility~~ should no longer be utilized, the entity that owns and
106 operates the utility facility shall file a request for abandonment with the department if the
107 facility is located upon the public rights of way under the authority of the department.

108 Upon request for abandonment, the entity shall have the discretion to:

109 (1) Remove and dispose of the asbestos pipe in accordance with federal laws and
110 regulations;

111 (2) Leave the asbestos pipe in place and fill it with grout or other similar substance
112 designed to harden within the pipe; or

113 (3) Allow the pipe to remain undisturbed in the ground and take no further action.

114 (c) At the request of the department or entity, any asbestos pipe left in the right of way as
115 authorized by subsection (b) of this Code section shall be marked so as to be locatable.

116 (d) The entity shall not relinquish the ownership of said facility as stated in subsection (h)
117 of Code Section 25-9-7 and Code Section 32-6-174. The facility shall be deemed
118 abandoned and out of service.

119 (e) If the utility facility is part of a highway improvement or project that the department
120 is undertaking or plans to undertake, or is in conflict with any other operation or activity
121 of the department on the public rights of way, then the facility shall be removed in
122 accordance with federal laws and regulations.

123 (f) If the entity decides to follow the options contained in paragraph (2) or (3) in
124 subsection (b) of this Code section as part of a new utility installation request and the
125 facility is later determined to qualify under subsection (e) of this Code section, then the
126 entity shall remove the facility in accordance with federal laws and regulations.

127 ~~(d)~~(g) Any costs, claims, or other liability associated with the entity's decision pursuant
128 to subsection (b) of this Code section shall be borne by the entity ~~and may be subject to~~
129 ~~offset by the department."~~

130 **SECTION 5.**

131 Said title is further amended by revising paragraph (4) of Code Section 32-4-41, relating to
 132 the duties of a county with respect to the county road system, as follows:

133 "(4) A county shall keep on file in the office of the county clerk, available for public
 134 inspection, the map of the county road system prepared by the department as provided
 135 for in subsection (a) of Code Section 32-4-2. In addition to keeping on file a map of the
 136 county road system, the county shall notify the department within three months after a
 137 county road is added to the local road or street system and shall further notify the
 138 department within three months after a local road or street has been abandoned. This
 139 notification shall be accompanied by a geospatial information system file, map, or plat
 140 depicting the location of the new or abandoned road;"

141 **SECTION 6.**

142 Said title is further amended by revising subsection (b) of Code Section 32-4-91, relating to
 143 the construction and maintenance of municipal street systems, as follows:

144 "(b) A municipality shall notify the department within three months after a municipal street
 145 is added to the municipal street system and shall further notify the department within three
 146 months after a municipal street is abandoned. This notification shall be accompanied by
 147 a geospatial information system file, map, or plat depicting the location of the new or
 148 abandoned street."

149 **SECTION 7.**

150 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
 151 revising subsection (c) of Code Section 33-24-53, relating to the prohibition of compensation
 152 for referrals to attorneys, as follows:

153 "(c) With respect to a motor vehicle accident, no employee of any law enforcement agency
 154 or the Department of Transportation shall allow any person, including an attorney, health
 155 care provider, or their agents, to examine or obtain a copy of any accident report or related
 156 investigative report when the employee knows or should reasonably know that the request
 157 for access to the report is for commercial solicitation purposes. No person shall request
 158 any law enforcement agency or the Department of Transportation to permit examination
 159 or to furnish a copy of any such report for commercial solicitation purposes. For purposes
 160 of this subsection, a request to examine or obtain a copy of a report is for 'commercial
 161 solicitation purposes' if made at a time when there is no relationship between the person
 162 or his or her principal requesting the report and any party to the accident, and there is no
 163 apparent reason for the person to request the report other than for purposes of soliciting a
 164 business or commercial relationship. All persons, except law enforcement personnel and

165 persons named in the report, shall be required to submit a separate written request to the
 166 law enforcement agency or the Department of Transportation for each report. Such written
 167 request shall state the requestor's name, address, and the intended use of the report in
 168 sufficient detail that the law enforcement agency or the Department of Transportation may
 169 ascertain that the intended use is not for commercial solicitation purposes. The law
 170 enforcement agency or the Department of Transportation shall file each written request
 171 with the original report. No person shall knowingly make any false statement in any such
 172 written request."

173 **SECTION 8.**

174 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 175 by revising subsection (a) of Code Section 36-36-3, relating to property annexed by
 176 municipalities, as follows:

177 "(a) The clerk, city attorney, or other person designated by the governing authority of any
 178 municipality annexing property shall file a report identifying any property annexed with
 179 the Department of Community Affairs and with the county governing authority of the
 180 county in which the property being annexed is located. Such reports shall be filed, at a
 181 minimum, not more than 30 days following the last day of the quarter in which the
 182 annexation becomes effective but may be filed more frequently. Each report shall include
 183 the following:

184 (1) The legal authority under which the annexation was accomplished, which shall be the
 185 ordinance or resolution number for any annexation effected pursuant to Article 2, 3, 4,
 186 or 6 of this chapter or the Act number if effected by local Act of the General Assembly;

187 (2) The name of the county in which the property being annexed is located; the
 188 enactment date and effective date of the annexation ordinance, resolution, or local Act
 189 of the General Assembly; ~~and~~

190 (3) A letter from the governing authority of any municipality annexing property stating
 191 their intent to add the annexed area to maps provided by the United States Bureau of the
 192 Census during their next regularly scheduled boundary and annexation survey of the
 193 municipality and stating that the survey and map will be completed as instructed and
 194 returned to the United States Bureau of the Census; and

195 (4) A list identifying roadways, bridges, and rights of way annexed and, if necessary, the
 196 total mileage annexed."

197 **SECTION 9.**

198 Said title is further amended by adding a new subsection to Code Section 36-72-14, relating
 199 to a permit for development of land on which a cemetery is located, as follows:

200 "(c) The provisions of this chapter notwithstanding, the Department of Transportation shall
 201 not be required to obtain a permit under this chapter unless human remains are to be
 202 relocated."

203 **SECTION 10.**

204 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 205 amended by revising Code Section 40-9-30, relating to fees for copies of accident reports,
 206 as follows:

207 "40-9-30.

208 The Department of Transportation, or its third-party designee, shall charge a fee of \$5.00
 209 for each copy of any accident report received and maintained by that department or its
 210 designee pursuant to Code Section 40-6-273."

211 **SECTION 11.**

212 Said title is further amended by revising Code Section 40-9-31, relating to submission of
 213 accident reports, as follows:

214 "40-9-31.

215 Each state and local law enforcement agency shall submit to the Department of
 216 Transportation the original document of any accident report prepared by such law
 217 enforcement agency or submitted to such agency by a member of the public. If the
 218 Department of Driver Services receives a claim requesting determination of security, the
 219 Department of Transportation shall provide a copy or an electronic copy of any relevant
 220 accident reports to the Department of Driver Services. ~~A Any law enforcement agency~~
 221 ~~may transmit the information contained on the accident report form by electronic means,~~
 222 ~~provided that the Department of Transportation has first given approval to the reporting~~
 223 ~~agency for the electronic reporting method utilized. ~~The law enforcement agency shall~~~~
 224 ~~retain a copy of each accident report. Law enforcement agencies that submit more than~~
 225 ~~500 reports each calendar year, as determined by the prior calendar year's volume, must~~
 226 ~~transmit the information contained on the accident report form by electronic means,~~
 227 ~~provided that the Department of Transportation has first given approval to the reporting~~
 228 ~~agency for the electronic reporting method utilized.~~ All such reports shall be submitted to
 229 the Department of Transportation, in the format specified by the department, not more than
 230 15 days following the end of the month in which such report was prepared or received by
 231 such law enforcement agency. The Department of Transportation is authorized to engage
 232 the services of a third party in fulfilling its responsibilities under this Code section."

233 **SECTION 12.**

234 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
235 by revising subsections (a) and (b) of Code Section 50-29-2, relating to the authority of
236 public agencies to contract for the provision of geographic information systems, as follows:

237 "(a) Notwithstanding subsection (f) of Code Section 50-18-71 or Code Section 50-18-71.2,
238 a county or municipality of the State of Georgia, a regional commission, or a local
239 authority created by local or general law that has created or maintains a geographic
240 information system in electronic form may contract to distribute, sell, provide access to,
241 or otherwise market records or information maintained in such system and may license or
242 establish fees for providing such records or information or providing access to such system,
243 unless such information is requested by a state, county, or municipal government agency
244 in which case this information will be provided free of charge and distributed at the
245 discretion of such government agency if it agrees to the limitations contained in subsection
246 (c) of this Code section.

247 (b) Any fees or license fees established pursuant to subsection (a) of this Code section
248 shall be based upon the recovery of the actual development cost of creating or providing
249 the geographic information system and upon the recovery of a reasonable portion of the
250 costs associated with building and maintaining the geographic information system, unless
251 such information is requested by a state, county, or municipal government agency in which
252 case this information will be provided free of charge and distributed at the discretion of
253 such government agency if it agrees to the limitations contained in subsection (c) of this
254 Code section. The fees may include cost to the county, municipality, regional commission,
255 or local authority of time, equipment, and personnel in the creation, purchase, development,
256 production, or update of the geographic information system."

257 **SECTION 13.**

258 This Act shall become effective on July 1, 2011.

259 **SECTION 14.**

260 All laws and parts of laws in conflict with this Act are repealed.