

## House Bill 137 (COMMITTEE SUBSTITUTE)

By: Representatives Sheldon of the 105<sup>th</sup>, Roberts of the 154<sup>th</sup>, and Burns of the 157<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

"(24) 'Public road' means a highway, road, street, avenue, toll road, tollway, drive, detour, or other way that either is open to the public or has been acquired as right of way, and is intended or to be used for its enjoyment by the public and for the passage of vehicles in any county or municipality of Georgia, including but not limited to the

following public rights, structures, sidewalks, facilities, and appurtenances incidental to the construction, maintenance, and enjoyment of such rights of way:

(A) Surface, shoulders, and sides;

(B) Bridges;

(C) Causeways;

(D) Viaducts;

(E) Ferries;

(F) Overpasses;

(G) Underpasses;

(H) Railroad grade crossings;

(I) Tunnels;

(J) Signs, signals, markings, or other traffic control devices;

(K) Buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of such ways or research pertaining thereto;

(L) Wayside parks;

(M) Parking facilities;

(N) Drainage ditches;

(O) Canals and culverts;

(P) Rest areas;

(Q) Truck-weighing stations or check points; and

(R) Scenic easements and easements of light, air, view, and access."

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

## SECTION 2.

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

"(a) There shall be a director of planning appointed by the Governor subject to approval by a majority vote of both the House Transportation Committee and the Senate Transportation Committee. The director shall serve during the term of the Governor by whom he or she is appointed and at the pleasure of the Governor. ~~Before assuming the~~

~~duties of his or her office, the director shall qualify by giving bond with a corporate surety licensed to do business in this state, such bond to be in the amount of \$500,000.00 and payable to the Governor and his or her successors in office. The bond shall be subject to the approval of the Governor and shall be conditioned on the faithful discharge of the duties of the office. The premium for the bond shall be paid out of the funds of the department. If the Governor's term expires and the incoming Governor has not made an appointment, the current director of planning shall serve until a replacement is appointed by the incoming Governor and confirmed by the House and Senate Transportation Committees."~~

### SECTION 3.

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

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

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

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

**SECTION 4.**

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

"32-4-4.

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

(b) Whenever existing utility facilities owned and operated by an entity contain asbestos pipe and such ~~pipe facility~~ exists in the public rights of way of any highway, road, ~~bridge~~, ~~or other transportation project or street~~ authorized pursuant to this title, and the entity determines that such ~~pipe facility~~ should no longer be utilized, the entity that owns and operates the utility facility shall file a notice of abandonment with the department if the facility is located upon the public rights of way under the authority of the department. Upon abandonment, the entity shall 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 and report the asbestos to any prospective buyer or lessee prior to any conveyance of the property; or

(3) Allow the pipe to remain undisturbed in the ground and ~~take no further action~~ report the asbestos to any prospective buyer or lessee prior to any conveyance of the property.

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

~~(d) Any costs, claims, or other liability associated with the entity's decision pursuant to subsection (b) of this Code section shall be borne by the entity and may be subject to offset by the department.~~ The entity shall not relinquish the ownership of said facility as stated in subsection (h) of Code Section 25-9-7 and Code Section 32-6-174. The facility shall be deemed abandoned and out of service.

(e) If retention of the utility facility in its existing location makes the highway improvement or project or operation or activity of the department on the public rights of way impracticable or unfeasible, then the facility should be removed in accordance with federal laws and regulations. The department shall notify the owner of the facility of the reasons the facility makes the highway improvement or project or operation or activity impracticable or unfeasible.

(f) If the entity decides to follow the options contained in paragraph (2) or (3) in subsection (b) of this Code section for any facility installed after the effective date of this subsection and the facility is later determined to qualify under subsection (e) of this Code

section, then the entity shall remove the facility in accordance with federal laws and regulations.

(g)(1) If a project comes within 24 inches of the facility being exposed, the entity shall be responsible for costs associated with removal of the facility.

(2) Any indirect or direct removal of pipes not within 24 inches of being exposed shall be the sole responsibility of the department, including all costs.

(3) It shall be incumbent upon the department or the entity to remove only the affected area of such a facility and not to remove any section that would not otherwise be impractical so as to reasonably avoid the removal of abandoned or dormant facilities."

## SECTION 5.

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

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

## SECTION 6.

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

"(b) A municipality shall notify the department within three months after a municipal street is added to the municipal street system and shall further notify the department within three months after a municipal street is abandoned. This notification shall be accompanied by a an appropriate digital file, map, or plat depicting the location of the new or abandoned street."

## SECTION 7.

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

"(c) With respect to a motor vehicle accident, no employee of any law enforcement agency or the Department of Transportation shall allow any person, including an attorney, health

care provider, or their agents, to examine or obtain a copy of any accident report or related investigative report when the employee knows or should reasonably know that the request for access to the report is for commercial solicitation purposes. No person shall request any law enforcement agency or the Department of Transportation to permit examination or to furnish a copy of any such report for commercial solicitation purposes. For purposes of this subsection, a request to examine or obtain a copy of a report is for 'commercial solicitation purposes' if made at a time when there is no relationship between the person or his or her principal requesting the report and any party to the accident, and there is no apparent reason for the person to request the report other than for purposes of soliciting a business or commercial relationship. All persons, except law enforcement personnel and persons named in the report, shall be required to submit a separate written request to the law enforcement agency or the Department of Transportation for each report. Such written request shall state the requestor's name, address, and the intended use of the report in sufficient detail that the law enforcement agency or the Department of Transportation may ascertain that the intended use is not for commercial solicitation purposes. The law enforcement agency or the Department of Transportation shall file each written request with the original report. No person shall knowingly make any false statement in any such written request."

## SECTION 8.

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

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

- (1) The legal authority under which the annexation was accomplished, which shall be the ordinance or resolution number for any annexation effected pursuant to Article 2, 3, 4, or 6 of this chapter or the Act number if effected by local Act of the General Assembly;
- (2) The name of the county in which the property being annexed is located; the enactment date and effective date of the annexation ordinance, resolution, or local Act of the General Assembly; ~~and~~

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

(4) A list identifying roadways, bridges, and rights of way on state routes that are annexed and, if necessary, the total mileage annexed."

#### SECTION 9.

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

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

#### SECTION 10.

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

"40-9-30.

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

#### SECTION 11.

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

"40-9-31.

Each state and local law enforcement agency shall submit to the Department of Transportation the original document of any accident report prepared by such law enforcement agency or submitted to such agency by a member of the public. If the Department of Driver Services receives a claim requesting determination of security, the Department of Transportation shall provide a copy or an electronic copy of any relevant accident reports to the Department of Driver Services. ~~A~~ Any law enforcement agency may transmit the information contained on the accident report form by electronic means, provided that the Department of Transportation has first given approval to the reporting agency for the electronic reporting method utilized. ~~The law enforcement agency shall~~

233 ~~retain a copy of each accident report.~~ Law enforcement agencies that submit more than  
234 500 reports each calendar year, as determined by the prior calendar year's volume, must  
235 transmit the information contained on the accident report form by electronic means,  
236 provided that the Department of Transportation has first given approval to the reporting  
237 agency for the electronic reporting method utilized. All such reports shall be submitted to  
238 the Department of Transportation, in the format specified by the department, not more than  
239 15 days following the end of the month in which such report was prepared or received by  
240 such law enforcement agency. The Department of Transportation is authorized to engage  
241 the services of a third party in fulfilling its responsibilities under this Code section."

242 **SECTION 12.**

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

244 **SECTION 13.**

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