

House Bill 137 (AS PASSED HOUSE AND SENATE)

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 duties of the
4 treasurer; to clarify the term of the planning director and eliminate the bonding requirement;
5 to remove the requirement of including the ZIP Code designation on official maps and lists;
6 to clarify procedures for removing asbestos pipe for utility facilities; to allow counties and
7 cities to send updated information to the department using digital files; to limit liability of
8 law enforcement officers and the department during periods of emergencies; to amend Title
9 33 of the Official Code of Georgia Annotated, relating to insurance, so as to exempt the
10 department from having to provide accident reports in certain situations; to amend Title 36
11 of the Official Code of Georgia Annotated, relating to local government, so as to require
12 cities to include certain information in annexation reports; to provide that the department is
13 not required to obtain cemetery redevelopment permits except in certain instances; to amend
14 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so
15 as to provide that designees of the department may charge for accident reports; to request
16 electronic submission of certain accident reports by law enforcement agencies; to provide for
17 related matters; to provide for an effective date; to repeal conflicting laws; and for other
18 purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 SECTION 1.

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

24 "(24) 'Public road' means a highway, road, street, avenue, toll road, tollway, drive,
 25 detour, or other way that either is open to the public or has been acquired as right of way,
 26 and is intended or to be used for its enjoyment by the public and for the passage of
 27 vehicles in any county or municipality of Georgia, including but not limited to the
 28 following public rights, structures, sidewalks, facilities, and appurtenances incidental to
 29 the construction, maintenance, and enjoyment of such rights of way:

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

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

57 **SECTION 2.**

58 Said title is further amended by revising subsection (c) of Code Section 32-2-42, relating to
 59 the appointment and responsibilities of the deputy commissioner, chief engineer, treasurer,
 60 and assistant treasurer, as follows:

61 "(c) The commissioner shall appoint a treasurer of the department to serve at the pleasure
 62 of the commissioner. Before assuming the duties of his or her office, the treasurer shall
 63 qualify by giving bond with a corporate surety licensed to do business in this state, such
 64 bond to be in the amount of \$500,000.00 and payable to the Governor and his or her
 65 successors in office. The bond shall be subject to the approval of the Governor and shall
 66 be conditioned on the faithful discharge of the duties of the office. The premium for the
 67 bond shall be paid out of the funds of the department. The duties of the treasurer shall be
 68 to receive all funds from all sources to which the department is entitled, to account for all
 69 funds received by the department, to adjust for additional appropriations or balances
 70 brought forward from previous years with the prior approval of the Office of Planning and
 71 Budget, and to perform such other duties as may be required of him or her by the
 72 commissioner. The commissioner shall have the authority to appoint an assistant treasurer
 73 in the same manner and under the same conditions as set forth in this subsection for the
 74 appointment of the treasurer, including the qualifying in advance by giving bond of the
 75 same type, amount, and paid for in the same manner as required of the treasurer. The
 76 assistant treasurer shall assume the duties of office of treasurer upon the incapacity or death
 77 of the treasurer and shall serve until a new treasurer is appointed as provided in this
 78 subsection."

79 **SECTION 3.**

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

82 "(a) There shall be a director of planning appointed by the Governor subject to approval
 83 by a majority vote of both the House Transportation Committee and the Senate
 84 Transportation Committee. The director shall serve during the term of the Governor by
 85 whom he or she is appointed and at the pleasure of the Governor. ~~Before assuming the~~
 86 ~~duties of his or her office, the director shall qualify by giving bond with a corporate surety~~
 87 ~~licensed to do business in this state, such bond to be in the amount of \$500,000.00 and~~
 88 ~~payable to the Governor and his or her successors in office. The bond shall be subject to~~
 89 ~~the approval of the Governor and shall be conditioned on the faithful discharge of the~~
 90 ~~duties of the office. The premium for the bond shall be paid out of the funds of the~~
 91 ~~department.~~ If the Governor's term expires and the incoming Governor has not made an
 92 appointment, the current director of planning may serve until a replacement is appointed

93 by the incoming Governor and confirmed by the House and Senate Transportation
 94 Committees."

95 **SECTION 4.**

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

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

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

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

118 **SECTION 5.**

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

121 "32-4-4.

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

124 (b) Whenever existing utility facilities owned and operated by an entity contain asbestos
 125 pipe and such pipe facility exists in the public rights of way of any highway, road, ~~bridge,~~
 126 ~~or other transportation project~~ or street authorized pursuant to this title, and the entity
 127 determines that such pipe facility should no longer be utilized, the entity that owns and

128 operates the utility facility shall file a notice of abandonment with the department if the
 129 facility is located upon the public rights of way under the authority of the department.
 130 Upon abandonment, the entity shall have the discretion to:

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

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

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

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

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

143 **SECTION 6.**

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

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

154 **SECTION 7.**

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

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

162 **SECTION 8.**

163 Said title is further amended by adding a new Code section to read as follows:

164 "32-6-4.

165 State or local law enforcement officers, including fire department officials, and the
 166 department are authorized, upon the issuance of an executive order by the Governor
 167 declaring a state of emergency, with or without the consent of the owner, to remove or have
 168 removed any natural or manmade obstruction, cargo, or other personal property which is
 169 abandoned, unattended, or damaged and the law enforcement officer or the department
 170 determines such object to be a threat to public health or safety or to be contributing to
 171 traffic congestion. Any person, contractor, towing service, or other entity that is removing
 172 an obstruction, cargo, or other personal property pursuant to the instruction of a law
 173 enforcement officer, an official of a fire department acting under the authority of paragraph
 174 (1) of Code Section 25-3-1 or paragraph (3) of Code Section 25-3-2, or the department, and
 175 under the provisions of this Code section, shall be liable for damage or harm at the location
 176 where the obstruction, cargo, or other personal property was left abandoned or unattended,
 177 only when the person, contractor, towing service, or other entity was grossly negligent in
 178 the performance of his or her assigned duties; provided, however, nothing in this Code
 179 section shall limit liability for any damage or harm caused at a location different from the
 180 location where the obstruction, cargo, or other personal property was left abandoned or
 181 unattended."

182 **SECTION 9.**

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

186 "(c) With respect to a motor vehicle accident, no employee of any law enforcement agency
 187 or the Department of Transportation shall allow any person, including an attorney, health
 188 care provider, or their agents, to examine or obtain a copy of any accident report or related
 189 investigative report when the employee knows or should reasonably know that the request
 190 for access to the report is for commercial solicitation purposes. No person shall request
 191 any law enforcement agency or the Department of Transportation to permit examination
 192 or to furnish a copy of any such report for commercial solicitation purposes. For purposes
 193 of this subsection, a request to examine or obtain a copy of a report is for 'commercial
 194 solicitation purposes' if made at a time when there is no relationship between the person
 195 or his or her principal requesting the report and any party to the accident, and there is no
 196 apparent reason for the person to request the report other than for purposes of soliciting a
 197 business or commercial relationship. All persons, except law enforcement personnel and

198 persons named in the report shall be required to submit a separate written request to the law
 199 enforcement agency or the Department of Transportation for each report. Such written
 200 request shall state the requestor's name, address, and the intended use of the report in
 201 sufficient detail that the law enforcement agency or the Department of Transportation may
 202 ascertain that the intended use is not for commercial solicitation purposes. The law
 203 enforcement agency or the Department of Transportation shall file each written request
 204 with the original report. No person shall knowingly make any false statement in any such
 205 written request."

206 **SECTION 10.**

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

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

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

220 (2) The name of the county in which the property being annexed is located; the total
 221 acreage annexed; the enactment date and effective date of the annexation ordinance,
 222 resolution, or local Act of the General Assembly; ~~and~~

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

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

230 (b) The submission of a report required under subsection (a) of this Code section shall be
 231 made in writing and may also be made in electronic format to the Department of
 232 Community Affairs and to others as required, at the discretion of the submitting
 233 municipality."

234 **SECTION 11.**

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

237 "(c) The provisions of this chapter notwithstanding, the Department of Transportation shall
 238 not be required to obtain a permit under this chapter unless human remains are to be
 239 relocated; provided, however, that the department shall be required to obtain an
 240 archaeologist's report, pursuant to paragraph (2) of Code Section 36-72-5, confirming the
 241 absence of human remains on the affected property."

242 **SECTION 12.**

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

246 "40-9-30.

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

250 **SECTION 13.**

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

253 "40-9-31.

254 Each state and local law enforcement agency shall submit to the Department of
 255 Transportation the original document of any accident report prepared by such law
 256 enforcement agency or submitted to such agency by a member of the public. If the
 257 Department of Driver Services receives a claim requesting determination of security, the
 258 Department of Transportation shall provide a copy or an electronic copy of any relevant
 259 accident reports to the Department of Driver Services. ~~A~~ Any law enforcement agency
 260 may transmit the information contained on the accident report form by electronic means,
 261 provided that the Department of Transportation has first given approval to the reporting
 262 agency for the electronic reporting method utilized. The law enforcement agency shall
 263 retain a copy of each accident report. Any law enforcement agency that transmits the data
 264 by electronic means must transmit the data using a nonproprietary interchangeable
 265 electronic format and reporting method. For purposes of this Code section, the term
 266 'nonproprietary' shall include commonly used report formats. All such reports shall be
 267 submitted to the Department of Transportation not more than 15 days following the end of
 268 the month in which such report was prepared or received by such law enforcement agency.

269 The Department of Transportation is authorized to engage the services of a third party in
270 fulfilling its responsibilities under this Code section."

271 **SECTION 14.**

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

273 **SECTION 15.**

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