

Capitol Forestry Report

April 2008



At the conclusion of every legislative session there are winners and losers. The 2008 session was certainly no exception.

The fact is, many good proposals simply run out of time or encounter political obstacles that seal their fate and prevent them from becoming law. Fortunately, our legislative process is also very good at keeping most bad proposals from being enacted. For that, we are grateful to our 236 citizen legislators for resisting the pressure to approve measures that do not pass the 'good public policy' test.

The 2008 session of the Georgia General Assembly was gaveled to a close at midnight on April 4, the 40th legislative day. For good or for bad, Georgians will not receive tax relief any time soon because legislative leaders could not agree on the form a tax cut should take, while at the same time they faced resistance from a governor who was extremely cautious in the face of declining state revenues and who thus opposed any tax cuts. Arguably, one of the session's best proposals lost out at the very last minute – a one cent sales tax levy for transportation improvements. And, depending on their shopping habits or particular view of the Sabbath, consumers can look forward to battling another day over Sunday sales of beer and wine in Georgia's grocery stores.

But for Georgia's forestry community, the news is very good. A number of legislative measures made it through that will not only help landowners maintain their forests as forests, but also that will help the manufacturers that create the markets that encourage them to grow trees in the first place.

The focus of this legislative report is not to cover those issues that you read about in the general press, but rather to update you on legislation of particular interest to the forestry community. Thanks to all *GFT* readers who were active during the session in sharing their concerns and positions with their elected officials. ***When you speak up for forestry, it does make a difference!***

Conservation use expansion takes a giant leap forward

After 18 years of waiting, Georgia's large tract forests will now be treated more like those that are enrolled in the conservation use (CUVA) property tax program created in 1990. The passage of House Resolution 1276 and House Bill 1211, both authored by Representative **Richard Royal**, R-Camilla (see page 6), has done away with the 2,000 acre limitation and ownership restrictions that for years have placed many landowners at a disadvantage by limiting the amount the acreage that could be placed in CUVA or denying CUVA access because ownership was corporate and not by private individuals. Effective in 2009, large tracts can enroll in a new conservation use program that is expected to dramatically influence the number of acres that otherwise might be lost to development or converted to other non-forest uses.

Key provisions of the measures include the following:

- ✓ Both privately-owned and corporate ownership will be eligible

- ✓ No limits are placed on how many acres can be enrolled
- ✓ The new tax program will require a fifteen year covenant to keep the property in a qualifying forestland use
- ✓ The legislation contains a ‘cure’ provision allowing an alleged breach of the covenant to be corrected before a property owner is ejected from the program.
- ✓ Penalties for breach of the covenant in the first five years of the covenant are three times the difference between the tax paid and the tax that would have been paid without the new program, plus interest. Penalties are stepped down to 2 ½ times in years 6-10 and 2 times in years 11-15. However, if the breach occurred in year 12, for example, the penalty back to year one would be at the 2 times rate applicable in years 11-15.
- ✓ Counties whose digest would be adversely impacted by more than 3% would be made whole through a state refund. Counties whose digest would be reduced by 3% or less would receive a refund equal to 50% of the digest reduction
- ✓ The legislation caps the year to year CUVA value increases at 3% and also defines ‘fair market value of forestland’ to reduce the temptation of taxing authorities to raise fair market values on forestland to increase the size of the refund from the state.

Successful passage of the legislation must be followed by voter approval this fall of the constitutional amendment created by HR 1276. Landowners are encouraged to obtain copies of the legislation to discuss with their tax advisers to begin to plan for their potential enrollment and determine the difference that this new property tax program will make in their annual tax bills.

Key improvements to existing conservation use statute

Those whose property is enrolled in the existing CUVA program will be pleased with changes made in this program this session. House Bill 1081 adds to CUVA a ‘cure’ provision identical to that referred to above in the new conservation use program that allows an alleged breach of the covenant to be corrected before a property owner is ejected from the program. It also prohibits denial of CUVA enrollment just because a single qualified conservation use of the property might not be met, for example, due to a restrictive covenant on the property at the time of purchase. The new language allows CUVA participation if any one of the qualifying uses is met. This provision is designed to stop local governments that have been interpreting CUVA more restrictively than was ever intended.

Forest product manufacturers will receive expanded sales tax opportunity

House Bill 237 by Representative **Chuck Martin**, R-Alpharetta, will apply what is known as “integrated plant theory” to the existing sales tax on machinery and equipment used in manufacturing, expanding the exemption to machinery and equipment that is “integral and necessary” to the manufacturing process, whether or not it touches or acts on the product. In addition to expanding the applicability of the sales tax exemption, the new law resolves a longstanding debate over the Department of Revenue’s restrictive interpretation of the intent of the measure that originally established this exemption.

Energy sales tax capped for manufacturers

This legislation – House Bill 272, sponsored by Representative **Jeff Lewis**, R-White - puts in place a temporary exemption from sales and use tax on a portion of the expenditures on energy used directly or indirectly in manufacturing or processing. The exemption is effective January 1, 2009 and will expire on December 31, 2010. It does not apply to local sales tax, only the state portion. The ‘cap’ created by the legislation, while not everything that GFA and others wanted, will help temporarily protect GFA manufacturers and processors from future spikes in energy prices. The goal remains to completely eliminate sales tax on energy used in manufacturing which is the case in most states, including those adjacent to Georgia. Obtain a copy of House Bill 272 to read the rules regarding exemptions for each fuel included in the exemption.

Senate committee to study future of manufacturing in Georgia

Senate Resolution 1097 by Senator **Chip Rogers**, R-Woodstock, creates a Senate Study Committee on the Future of Manufacturing in Georgia to study the conditions, needs and issues faced by the state's manufacturing community and to recommend any action or legislation to spur job growth in the sector, to help existing industry grow, to create an pro-manufacturing environment to attract manufacturers to Georgia and to target growth in particular industries. The Committee is required to issue a report of its findings before the 2009 legislature convenes.

Georgia manufactured products to be highlighted

Senate Bill 359 by Senator **Tim Golden**, D-Valdosta, creates a 'Made in Georgia' program that will promote goods and products manufactured in Georgia. It also aims to inform citizens of the diverse manufacturing sector within the state and to provide educational outreach efforts to bring the science of manufacturing into the classroom and to increase the appreciation of the benefits of manufacturing. The program is to be managed by the Georgia Department of Economic Development.

Forestry agency gets new tools in fire violations

Senate Bill 400 by Senator **Ross Tolleson**, R-Perry, amends existing law to allow Georgia Forestry Commission P.O.S.T. Certified Investigators to issue citations for misdemeanor offenses concerning forestry law. Georgia Code as currently written allows only for the physical arrest of offenders which more often than not is not appropriate for the violation and hinders law enforcement in equitably and effectively enforcing forestry laws.

The legislation also amends existing arson laws to include a new offense – arson of lands.. Currently there is no specific applicable law that carries a penalty appropriate to the crime or the economic loss of timber. A person is guilty of this offense if the person, *with the intent to damage*, starts a fire in any woodlands, brush or field that he does not own or for which he does not have the owner's permission. A person who commits this offense will be guilty of arson of lands in the third degree and punished the same as the current arson in the third degree allows. A person who commits the offense of arson of lands that results in a fire that burns more than 5 acres that do not belong to him will be guilty of arson of lands in the second degree and will be punished the same as the current arson in the second degree allows.

Finally, arson of lands in the first degree is committed by anyone who starts a fire when it was reasonably foreseeable that human life might be endangered. This offense carries a penalty the same as the existing arson in the first degree, imprisonment for up to 20 years and a fine of \$50,000, or both.

Resolution calls for sales tax relief on off road fuel

Senate Resolution 1300 by Senator **John Bulloch**, R-Ochlocknee, urges the governor to temporarily suspend the collection of state sales tax on red fuel or dyed fuel oil for timber harvesting, agriculture or construction use. Representative **Johnny Floyd**, R-Cordele, undertook a similar effort in the House. At this writing there is some reason to hope that Governor Perdue might comply with the request and suspend the sales tax on these fuel products through December 31, 2008.

To obtain copies of legislation referred to in this report, visit the Georgia Forestry Association website at www.gfagrow.org and click on Georgia General Assembly under the Links tab.
