

January 28, 2005

**EXCLUSIVE BY E-MAIL
GW&PCA's Legislative Update**

Overview: Friday marked the 8th day of the 2005 session of the Georgia General Assembly; there are 32 days remaining. For complete descriptions of bills we are tracking and links to actual copies of the bills, simply go to our web site at www.gwpca.org and click on "Legislative Updates". The bills and regulatory issues we are tracking are identified individually, so you can quickly find information on those issues of interest to you. The updates reported in this "Exclusive" will be posted on our web site by Tuesday afternoon, February 2.

New Bills and Issues

HB 98: Land Conservation Trust Fund/Revolving Loan Fund: House Bill 98 is a Governor's initiative to establish a Land Conservation Trust Fund and a Land Conservation Revolving Loan Fund to assist local governments in the acquisition of greenspace. Initial funding is proposed at a level of \$100 million, of which \$25 million would be private funding, and \$75 million State funding, with the funds managed by GEFA. Of the \$75 million State funds, \$55 million would be taken from the repayment stream for water and sewer projects.

Status: Introduced 1/25; passed out of House Natural Resources 1/26; going before the full House 1/31. This bill is on an extreme fast-track.

Link: http://www.legis.state.ga.us/legis/2005_06/sum/hb98.htm

"Dig Law": You may recall that we spent a great deal of time last year on House Bill 1352, with the bill eventually dying in the Senate Regulated Industries and Utilities Committee, resulting in the creation of a study committee charged with studying the entire Georgia Utility Facility Protection Act and bringing recommendations for fixing GUFPA back to the Senate this session. As originally introduced, House Bill 1352 would remove the exemptions which local public utilities currently enjoy from being fined for failure to comply with "one-call" legislation, and would require local utilities to locate lines in developing areas where the lines have not yet been accepted by the utility. Perhaps the most onerous provision of the original bill (aside from the exemption issue) is that it would require location "up to the connection to the customer's facilities or the edge of the public right-of-way, whichever is farther", which would require public utilities to mark all water and sewer lines, including laterals, in the rights-of-way, regardless of whether the lines belong to the city or the property owner.

Status: The Senate Study Committee appointed an advisory committee made up of Public Service Commission staff, utility representatives, local government representatives, and others to try to work out compromises on the key issues and to draft new legislation; GW&PCA is well-represented on the advisory committee. It appears that major progress is being made on most of the issues, but the PSC staff has been totally unwilling to discuss the exemption issue, stating from the beginning of the process that

removal of the exemption was a "done deal". The PSC representative who chairs the advisory committee promised the full Senate Committee a draft bill within 10 days at a hearing earlier this week, indicating that he would take the lead on drafting the bill on behalf of the advisory committee.

GW&PCA Position: Since we have not seen anything in writing yet, it is premature to take a position on a non-existent bill. However, GW&PCA will oppose any effort to remove the exemption from civil penalties for local government. We consider this issue a deal-breaker, regardless of any progress made on other issues.

Permit Fees: Last year, House Bill 1697 was dropped in the hopper late in the session, and its author, Rep. Wendell Willard, is promising to reintroduce it in order to create a permit application and annual discharge fee system for NPDES and LAS permits. This issue is very popular with the environmentalists, who often refer to it as a "pollution fee" or a "pollution tax". The theory behind permit fees is that they would generate additional funds to support EPD's permitting, regulation, and enforcement in the arena in which the fees were generated, thereby resulting in improved environmental protection programs, faster permit processing, etc. In practice, though, there are several major problems with such fees. First and foremost, without a Constitutional amendment directing the fees collected back to a specific programmatic area (which is extremely unlikely), the fees go into the State Treasury where they are subject to the appropriation process. There is absolutely no guarantee that such fees will be appropriated to the EPD program from whence they came, or to EPD at all. Recent history tells us that, when State budget times are tight, funds collected for such purposes become prime targets for other purposes (note: last year, the Hazardous Waste Trust Fund and the Solid Waste Trust Fund were decimated in order to balance the budget, and less than half of the land disturbing permit fees collected by the State have subsequently been appropriated to EPD for its erosion/sediment control program as promised when the legislation establishing that permit fee system was passed just two years ago). In addition, there is no guarantee that, even if fees collected were returned to EPD, there would not be an accompanying reduction in general appropriations, resulting in no net increase in funding to EPD, but rather simply a shift in the source of funding from general appropriations to fees.

Status: Still in the discussion stage. No bill yet.

GW&PCA Position: GW&PCA supports a strong EPD, with strong permitting, regulation, and enforcement programs. These should be fully supported through direct appropriations in the State budget. Unless Constitutional and/or legislative guarantees can be provided that any fees collected would result in direct increases in funding in the program area where such fees are generated, with no reduction in funding for such program area from other sources, GW&PCA opposes any permit fee system proposal.

Other Bills We Are Tracking

HB 53 and HB 55: Interbasin/Intrabasin Transfer Restrictions:

Status: Assigned to House Natural Resources Committee 1/12.

GW&PCA Position: It has been GW&PCA's consistent position that decisions on specific issues such as interbasin/intrabasin transfer restrictions as proposed in HB 53 and

HB 55 should come out of the comprehensive statewide water management planning process rather than driving the process. GW&PCA opposes HB 53 and HB 55.

Link: http://www.legis.state.ga.us/legis/2005_06/sum/hb53.htm

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