

Senate Bill 169

By: Senators Gooch of the 51st, Williams of the 19th, Beach of the 21st, Mullis of the 53rd, Miller of the 49th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,
2 and ferries, so as to revise what constitutes part of the state highway system; to provide for
3 the appropriation of funds to the Department of Transportation; to provide for notice in the
4 disposition of property; to provide for the determination of market value of property acquired
5 by the department; to provide for the procedure for the sale of property when the right of
6 acquisition is not exercised; to provide for the implementation of the federal Public
7 Transportation Safety Program; to provide for the reconstruction and relocation of outdoor
8 advertising signs located upon property that has been acquired for public road purposes; to
9 provide for standards for relocating such signs; to provide for standards of compensation by
10 the Department of Transportation and local governments in instances when an outdoor
11 advertising sign is located upon land acquired for public purposes; to amend Title 40 of the
12 Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to provide
13 for submission of electronic accident reports by law enforcement agencies; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
18 is amended by revising Code Section 32-4-20, relating to the composition of the state
19 highway system, as follows:

20 "32-4-20.

21 The state highway system shall consist of an integrated network of arterials and of other
22 public roads or bypasses serving as the major collectors therefor. No public road shall be
23 designated as a part of the state highway system unless it meets at least one of the
24 following requirements:

- 25 (1) Serves trips of substantial length and duration indicative of regional, state-wide, or
26 interstate importance;
- 27 (2) Connects adjoining county seats;

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- 28 (3) Connects urban or regional areas with outlying areas, both intrastate and interstate;
 29 or
 30 (4) Serves as part of the principal collector network for the state-wide and interstate
 31 arterial public road system; ~~or~~
 32 ~~(5) Serves as part of a programmed road improvement project plan in which the~~
 33 ~~department will utilize state or federal funds for the acquisition of rights of way."~~

34 **SECTION 2.**

35 Said title is further amended by revising Code Section 32-5-2, relating to the appropriation
 36 of funds to the Department of Transportation, as follows:

37 "32-5-2.

38 All federal funds received by the state treasurer under Code Section 32-5-1 are continually
 39 appropriated to the department for the purpose specified in the grants of such funds except
 40 as such funds may be directed by the federal government to the State Road and Tollway
 41 Authority, ~~provided that no federal funds or funds appropriated to the department shall be~~
 42 ~~expended for procurement of rights of way for a road to be constructed on a county road~~
 43 ~~system except as otherwise provided by law or by agreement between the federal~~
 44 ~~government and the department."~~

45 **SECTION 3.**

46 Said title is further amended by revising Code Section 32-7-4, relating to procedure for the
 47 disposition of property by the Department of Transportation, as follows:

48 "32-7-4.

49 (a)(1) In disposing of property, as authorized under Code Section 32-7-3, the department,
 50 a county, or a municipality, provided that such department, county, or municipality has
 51 held title to the property for no more than 30 years, shall notify the owner of such
 52 property at the time of its acquisition or, if the tract from which the department, a county,
 53 or a municipality acquired its property has been subsequently sold, shall notify the owner
 54 of abutting land holding title through the owner from whom the department, a county, or
 55 a municipality acquired its property. The notice shall be in writing delivered to the
 56 appropriate owner or by publication if his or her address is unknown; and he or she shall
 57 have the right to acquire, as provided in this subsection, the property with respect to
 58 which the notice is given. Publication, if necessary, shall be in a newspaper of general
 59 circulation in the county where the property is located. If, after a search of the ~~land and~~
 60 ~~probate~~ available public records, the address of any interested party cannot be found, ~~an~~
 61 ~~affidavit stating such a record of the~~ facts and reciting the steps taken to establish the
 62 address of any such person shall be placed in the department, county, or municipal

63 records and shall be accepted in lieu of service of notice by mailing the same to the last
 64 known address of such person. After properly completing and ~~filing such affidavit~~
 65 documenting the search, the department, county, or municipality may dispose of the
 66 property in accordance with the provisions of subsection (b) of this Code section.

67 (2)(A) When an entire parcel acquired by the department, a county, or a municipality,
 68 or any interest therein, is being disposed of, it may be acquired under the right created
 69 in paragraph (1) of this subsection at such price as may be agreed upon, but in no event
 70 less than the price paid for its acquisition. When only remnants or portions of the
 71 original acquisition are being disposed of, they may be acquired for the market value
 72 thereof at the time the department, county, or municipality decides the property is no
 73 longer needed. The department shall use a real estate appraiser with knowledge of the
 74 local real estate market who is licensed in Georgia ~~and not an employee of the~~
 75 ~~department~~ to establish the fair market value of the property prior to listing such
 76 property.

77 (B) The provisions of subparagraph (A) of this paragraph notwithstanding, if the value
 78 of the property is ~~\$30,000.00~~ \$75,000.00 or less as determined by department estimate,
 79 the department, county, or municipality may negotiate the sale.

80 (3) If the right of acquisition is not exercised within ~~60~~ 30 days after due notice, the
 81 department, county, or municipality may proceed to sell such property as provided in
 82 subsection (b) of this Code section.

83 (4) When the department, county, or municipality in good faith and with reasonable
 84 diligence attempted to ascertain the identity of persons entitled to notice under this Code
 85 section and mailed such notice to the last known address of record of those persons or
 86 otherwise complied with the notification requirements of this Code section, the failure
 87 to in fact notify those persons entitled thereto shall not invalidate any subsequent
 88 disposition of property pursuant to this Code section.

89 (b)(1)(A) Unless a sale of the property is made pursuant to paragraph (2) or (3) of this
 90 subsection, such sale shall be made to the bidder submitting the highest of the sealed
 91 bids received after public advertisement for such bids for two weeks. If the highest of
 92 the sealed bids received is less than but within 15 percent of the established market
 93 value, the department may accept that bid and convey the property in accordance with
 94 the provisions of subsection (c) of this Code section. The department or the county or
 95 municipality shall have the right to reject any and all bids, in its discretion, to
 96 readvertise, or to abandon the sale.

97 (B) Such public advertisement shall be inserted once a week in such newspapers or
 98 other publication, or both, as will ensure adequate publicity, the first insertion to be at
 99 least two weeks prior to the opening of bids, the second to follow one week after the

100 first publication. Such advertisement shall include but not be limited to the following
101 items:

- 102 (i) A description sufficient to enable the public to identify the property;
- 103 (ii) The time and place for submission and opening of sealed bids;
- 104 (iii) The right of the department or the county or municipality to reject any one or all
105 of the bids;
- 106 (iv) All the conditions of sale; and
- 107 (v) Such further information as the department or the county or municipality may
108 deem advisable as in the public interest.

109 (2)(A) Such sale of property may be made by the department or a county or
110 municipality by listing the property through a real estate broker licensed under Chapter
111 40 of Title 43 who has a place of business located in the county where the property is
112 located or outside the county if no such business is located in the county where the
113 property is located. Property shall be listed for a period of at least three months. Such
114 property shall not be sold at less than its fair market value. The department shall use
115 a real estate appraiser with knowledge of the local real estate market who is licensed
116 in Georgia ~~and not an employee of the department~~ to establish the fair market value of
117 the property prior to listing such property. All sales shall be approved by the
118 commissioner on behalf of the department or shall be approved by the governing
119 authority of the county or municipality at a regular meeting ~~and that~~ shall be open to the
120 public ~~at which meeting,~~ and public comments shall be allowed at such meeting
121 regarding such sale.

122 (B) Commencing at the time of the listing of the property as provided in subparagraph
123 (A) of this paragraph, the department, county, or municipality shall provide for a notice
124 to be inserted once a week for two weeks in the legal organ of the county indicating the
125 names of real estate brokers listing the property for the political subdivision. The
126 department, county, or municipality may advertise in magazines relating to the sale of
127 real estate or similar publications.

128 (C) The department, county, or municipality shall have the right to reject any and all
129 offers, in its discretion, and to sell such property pursuant to the provisions of paragraph
130 (1) of this subsection.

131 (3)(A) Such sale of property may be made by the department, a county, or a
132 municipality to the highest bidder at a public auction conducted by an auctioneer
133 licensed under Chapter 6 of Title 43. Such property shall not be sold at less than its fair
134 market value.

135 (B) The department, county, or municipality shall provide for a notice to be inserted
 136 once a week for the two weeks immediately preceding the auction in the legal organ of
 137 the county including, at a minimum, the following items:

- 138 (i) A description sufficient to enable the public to identify the property;
- 139 (ii) The time and place of the public auction;
- 140 (iii) The right of the department or the county or municipality to reject any one or all
 141 of the bids;
- 142 (iv) All the conditions of sale; and
- 143 (v) Such further information as the department or the county or municipality may
 144 deem advisable as in the public interest.

145 The department, county, or municipality may advertise in magazines relating to the sale
 146 of real estate or similar publications.

147 (C) The department, county, or municipality shall have the right to reject any and all
 148 offers, in its discretion, and to sell such property pursuant to the provisions of paragraph
 149 (1) or (2) of this subsection.

150 (c) Any conveyance of property shall require the approval of the department, county, or
 151 municipality, by ~~order~~ approval of the commissioner on behalf of the department and, in
 152 the case of a county or municipality, by resolution, to be recorded in the minutes of its
 153 meeting. If the department or the county or municipality approves a sale of property, the
 154 commissioner, chairperson, or presiding officer may execute a quitclaim deed conveying
 155 such property to the purchaser. All proceeds arising from such sales shall be paid into and
 156 constitute a part of the funds of the seller."

157 SECTION 4.

158 Said title is further amended in Code Section 32-9-10, relating to the implementation of the
 159 federal Intermodal Surface Transportation Efficiency Act of 1991, by revising subsection (a)
 160 and adding new subsections to read as follows:

161 "(a) The purpose of this Code section is to implement ~~Section 3029 of Public Law~~
 162 ~~102-240, the federal Intermodal Surface Transportation Efficiency Act of 1991, the federal~~
 163 Public Transportation Safety Program, 49 U.S.C. Section 5329, referred to in this Code
 164 section as the act."

165 "(g) Nothing in this Code section is intended to conflict with any provision of federal law;
 166 and, in case of such conflict, such portion of this Code section as may be in conflict with
 167 such federal law is declared of no effect to the extent of the conflict.

168 (h) The department is authorized to take the necessary steps to secure the full benefit of the
 169 federal-aid program and meet any contingencies not provided for in this Code section,
 170 abiding at all times by a fundamental purpose to perform all acts which are necessary,

171 proper, or incidental to the efficient and safe operation and development of the department
 172 and the state highway system and of other modes and systems of transportation."

173 **SECTION 5.**

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

175 "32-3-3.1.

176 (a) When rights of way or real property or interests therein are acquired by a state agency,
 177 county, or municipality for public road purposes and an outdoor advertising sign permitted
 178 by the state in accordance with Part 2 of Article 3 of Chapter 6 of this title and a local
 179 county or municipal ordinance, which has not lapsed and is in good standing, is located
 180 upon such property, the outdoor advertising sign may be relocated or reconstructed and
 181 relocated through agreement of the owner of the property and owner of the outdoor
 182 advertising sign, if such owners do not refer to the same person, so long as the new
 183 location:

184 (1) Is within 250 feet of its original location, provided that the new location meets the
 185 requirements for an outdoor advertising sign provided in Part 2 of Article 3 of Chapter 6
 186 of this title;

187 (2) Is available to the owner of the outdoor advertising sign and is comparable to the
 188 original location, as agreed upon by the owner of the outdoor advertising sign and the
 189 department;

190 (3) Does not result in a violation of federal or state law; and

191 (4) Is within zoned commercial or industrial areas or unzoned commercial or industrial
 192 areas as defined in Code Section 32-6-71.

193 (b) An outdoor advertising sign relocated as provided for in subsection (a) of this Code
 194 section may be adjusted in height or angle or both in order to restore the visibility of the
 195 sign to the same or a comparable visibility which existed prior to acquisition by a state
 196 agency, county, or municipality, provided that the height of such relocated sign shall not
 197 exceed the greater of the height of the existing sign or 75 feet, as measured from the base
 198 of the sign or the crown of the adjacent roadway to which the sign is permitted, whichever
 199 is greater.

200 (c) For any federal aid project or any project financed in whole or in part with federal
 201 funds, the actual costs of relocation or reconstruction and relocation of an outdoor
 202 advertising sign relocated as provided for in subsection (a) of this Code section shall be
 203 paid by the department. For any project not financed in whole or in part with federal funds,
 204 the actual costs of relocation or reconstruction and relocation shall be paid by the owner
 205 of the outdoor advertising sign.

206 (d) If no relocation site that meets the requirements of paragraphs (1) through (4) of
 207 subsection (a) of this Code section exists, just and adequate compensation shall be paid by
 208 the department to the owner of the outdoor advertising sign.

209 (e) If a sign is eligible to be relocated as provided for in subsection (a) of this Code section
 210 but such new location would result in a conflict with local ordinances in the city or county
 211 of applicable jurisdiction and no variance or other exception is granted to allow relocation
 212 as requested by the owner of the outdoor advertising sign, just and adequate compensation
 213 shall be paid by the local governing authority to the owner of the outdoor advertising sign.
 214 However, no compensation resulting from the denial of a variance or exception by a local
 215 governing authority for an outdoor advertising sign eligible for relocation under this Code
 216 section shall be paid either directly or indirectly by the department."

217 **SECTION 6.**

218 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 219 amended by revising Code Section 40-9-31, relating to the submission of accident reports to
 220 the Department of Driver Services and the Department of Transportation, as follows:

221 "40-9-31.

222 Each state and local law enforcement agency shall submit to the Department of
 223 Transportation the original document of any accident report prepared by such law
 224 enforcement agency or submitted to such agency by a member of the public. If the
 225 Department of Driver Services receives a claim requesting determination of security, the
 226 Department of Transportation shall provide a copy or an electronic copy of any relevant
 227 accident reports to the Department of Driver Services. Any such law enforcement agency
 228 may shall transmit the information contained on the accident report form by electronic
 229 means, provided that the Department of Transportation has first given approval to the
 230 reporting agency for the electronic reporting method utilized. The law enforcement agency
 231 shall retain a copy of each accident report. ~~Any~~ The law enforcement agency ~~that transmits~~
 232 ~~the data by electronic means must~~ may transmit the data using a nonproprietary
 233 interchangeable electronic format and reporting method. For purposes of this Code section,
 234 the term 'nonproprietary' shall include commonly used report formats. All such reports
 235 shall be submitted to the Department of Transportation not more than ~~15~~ seven days
 236 following the ~~end of the month in~~ date which such report was prepared or received by such
 237 law enforcement agency. The Department of Transportation is authorized to engage the
 238 services of a third party in fulfilling its responsibilities under this Code section."

239 **SECTION 7.**

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