ABC of Georgia Weekly Legislative Report - 2.3.20

By Rusty Paul

The legislature completed the second week – and legislative day 9 – of the 2020 session on Friday and both chambers are still gearing up for the legislative push to come. The typical day right now is short – each daily session lasting about an hour – because bills are still being drafted for introduction.

Even though several bills were carried over from the 2019 session, the current focus is getting new or updated legislation drafted. All bills are written by one of a half dozen legislative staff lawyers who must take the legislator’s intent, research the applicable statutes and then write the proposed law in legislative legalese. With each two-year session generating up to 2,000 pieces of proposed laws and infinitely more resolutions, getting all those legislative documents prepared and ready for introduction is a time-consuming process.

So, the General Assembly typically marks time in its first couple of weeks while this process takes place. Once a bill is introduced, legislative leaders prefer that it sits for a few days to give everyone interested in it the opportunity to review, digest and analyze it for both its intended and unintended consequences.

The number of bills launched each day is growing and committees in both chambers are expected to start holding hearings on some of them next week, followed by a quickening pace of bills moving toward votes in each chamber.

**Lien Law Revisions** – SB 315 was introduced this week to correct challenges created by an earlier Appeals Court ruling involving lien waivers. The bill, a product of input from several construction organizations and the work of several construction industry attorneys, was introduced by Sen. Lindsey Tippens and co-signed by Senate Majority Leader Mike Dugan, an ABC member.

The bill limits lien waivers and releases of lien and labor or material bond rights only and does not affect any other rights or remedies of the claimant. Assigned to the Senate Judiciary Committee, it is awaiting a full committee hearing.

**Warranty Ruling** – Initially, it was expected that the Georgia Building Authority would pursue corrective language after the Georgia Court of Appeals essentially capped warranties at eight years. However, several conversations with GBA revealed that its general counsel felt the ruling had no impact on its current warranties, which are typically 20 years for roof work, for example. That opinion was subsequently reinforced by an opinion from the Georgia Attorney General’s office. We are still talking with other construction groups about next steps and what legislative action may be necessary.

**HB 715** - This bill eliminates the gross receipts tax for business licenses and prohibits permits costs from being tied to the value of a project. It came out of a summer study committee looking at a case where a middle Georgia contractor expanded its operations into the metro Atlanta area and was charged $40,000 for a business license. Subsequently, it was determined the contractor miscalculated its gross receipts and the license was later issued for $2,000. Nevertheless, members on the committee decided to move forward with the legislation and it is currently in the House Ways & Means Committee awaiting a hearing.
DAFC Target of Legislation – A bill authored by Rep. Chuck Martin (R-Alpharetta) and co-sponsored by Speaker Pro Tem Jan Jones and Rep. Debra Silcox, three North Fulton representatives, took direct aim at the Development Authority of Fulton County, striking at the heart of its processes and procedures. HB 837 requires DAFC to obtain permission from the local school board and the municipal government in which a project occurs before issuing tax abatements.

The bill stems from complaints by local school boards that tax abated economic development projects take away school taxes without their involvement, even though regular economic analyses prove school boards and local governing authorities typically achieve more revenue from these projects even when abatements are involved.

DAFC has been responsible for more than $2 billion in construction projects in Fulton County over the last decade with projects ranging from the new Mercedes Benz headquarters to online retail logistics/warehouse facilities in South Fulton to affordable and workforce housing across the county.

Nevertheless, the sponsors were disturbed by some of the projects approved by DAFC, particularly in Alpharetta, that did not, in their estimation, provide timely notice or adequate collaboration and input from the local government.

The sponsors are willing to discuss some compromises, but believe that, in the words of Rep. Jones, large tax decisions shouldn’t rest solely in the hands of unelected officials, the existing law that delegates that power to development authorities notwithstanding. As drafted, the bill’s provisions would negate DAFC’s ability to enter non-disclosure agreements which are routine and typically essential in major corporate expansions or relocations.

The sponsors are looking at ways to achieve their goals without jeopardizing DAFC’s ability to facilitate new business growth but are also considering including a provision requiring a development authority to make a determination that a project cannot go forward “but for” the abatements.

The legislation as currently drafted does not include Invest Atlanta or any of the development authorities operated by Fulton County cities or any other development authorities in the state, though they are considering adding Invest Atlanta under their legislation.

Other Key Bills

HB 773 - Reciprocal Licensing – allows anyone holding a valid license in another state to obtain a Georgia license automatically without proving qualifications for obtaining a Georgia license and without approval of the relevant licensing board.

HB 790/SB 310 - Structural Engineer – Legislation creating a license for structural engineers passed the general assembly last year but was vetoed by Gov. Kemp for failing to comply with certain requirements within the Secretary of State’s office. It has been reintroduced with new language complying with the Governor’s requirements.

HB 126 – Left over from the 2019 session, this bill creates the GeorgiaBest program to create an employability skills training curriculum within the state technical colleges.

HB 314 – Another bill held over from the 2019 session, removes the sunset provisions for sales and use tax exemptions for qualified job training organizations.