Georgia General Assembly

House Budget and Research Office

This report is submitted pursuant to the following resolution,

HR 935

which created the Georgia Commission on Freight and Logistics to which members were appointed by the Speaker of the House of Representatives and the President of the Senate.

Representative Kevin Tanner, Co-Chairman

Senator Brandon Beach, Co-Chairman

Georgia Commission on Freight and Logistics

Recommendations Overview

Co-Chairman Kevin Tanner
Representative Dale Rutledge
Representative Calvin Smyre
Danny Dunagan
Derrick Johnson
Brad Skinner
Steve Taylor
Rick Toole

Co-Chairman Brandon Beach
Senator Steve Gooch
Senator Burt Jones
Rebecca Brewster
Felicia Moore
Stephanie Smith
Mark Wisenbaker, Jr.

INTRODUCTION:

During the 2020 session of the General Assembly, the Georgia Commission on Freight and Logistics was extended by the adoption of House Resolution 935. In its 2019 report, the Commission recommended the extension of the commission for an additional year to take a deeper dive into existing findings and to seek solutions to the challenges that surfaced during the multiple meetings held during the 2019 interim.

When considering an extension of the commission, no one foresaw the coming pandemic, which changed the face of the logistics industry in ways that were already trending but were exponentially accelerated by stay-at-home orders. The resulting explosion in e-commerce has created more demand on the logistics and freight sector. Faced with this “new normal” in addition to existing challenges with truck parking, workforce development, and challenges with infrastructure funding, the work before the commission was great.

The commission is made up of three members of the House of Representatives and three members of the Senate; six logistics professionals, four local government officials, and several leaders of organizations and state agencies. Speaker Ralston appointed Representatives Kevin Tanner, Calvin Smyre, and Dale Rutledge; logistics professionals Brad Skinner, member of the board of directors at OmniTRAX; Rick Toole, vice president and Georgia division manager at Alfred Benesch and Company; and Derrick Johnson, president of the South Atlantic division for UPS. Local government officials appointed by Speaker Ralston were Mayor of Gainesville Danny Dunagan, and Bartow County Commissioner Steve Taylor.

Lieutenant governor appointments included Senators Brandon Beach, Steve Gooch, and Bert Jones; logistics professionals Rebecca Brewster, president and COO of the American Transportation Research Institute; and Stephanie Smith, vice president of Supply Chain Development for the Home Depot. The lieutenant governor’s local government appointments were Atlanta City Council President Felicia Moore, and Lowndes County Commissioner Mark Wisenbaker, Jr.

Members specified within the resolution included the executive director of the Georgia Municipal Association (or designee), executive director of the Association County Commissioners of Georgia (or designee), president or chairperson of the Georgia Chamber of Commerce, president of the Metro Atlanta Chamber of Commerce, the commissioner of the Department of Transportation (ex-officio), and the executive director of the Georgia Ports Authority (ex-officio).

Through the course of its meetings the commission heard from state and industry leaders and professionals about trends, projections, and the challenges facing Georgia’s freight movement and mobility.

MEETINGS:

All meetings were held in room 606 of the Coverdell Legislative Office Building in Atlanta.

September 15, 2020

October 27, 2020

November 10, 2020

December 2, 2020

FINDINGS:

The COVID-19 pandemic clearly accelerated the urgency of the work facing the commission. When much of the country shut down and many governors issued stay-at-home orders, e-commerce exploded. In May 2020, online spending was up 77 percent over May 2019. Across the country, ecommerce daily sales increased 49 percent in April. Every single day from May to the end of June 2020 saw more than $2 billion in sales; in 2019 there were only two $2 billion days outside of the holiday season! These existing trends were clearly accelerated and amplified due to the COVID-19 pandemic, but the impact on the freight and logistics industry has been no less significant, and those impacts have been particularly acute in places like Georgia.

A long-running challenge for the logistics industry is workforce development. Not only does the industry need drivers, operators, managers, and other manual labor to physically move the goods, but the industry also needs a workforce educated and sophisticated in various technology platforms which are crucial to success. While the driver shortage continues to be an issue, Georgia does have advantages in developing a logistics workforce. The Technical College System of Georgia provides collaborative education with industry partners, customized training, and HOPE Career Grants for high-demand work fields in logistics, transportation, and supply chain. In Fiscal Year 2020, the HOPE Career Grant received appropriations in the amount of $16.2 million with the commercial truck driving students being awarded $1.5 million, roughly 9.1 percent.

However, there remains a large demand for commercial truck drivers as e-commerce demand continues to soar. Companies have a hard time hiring and retaining truck drivers due to candidates' concerns with compensation, hours of service, and truck parking; these are the top three concerns for commercial drivers seeking employment. The top issue commercial companies currently face in transportation is driver shortages. This shortage was recently compounded by the pandemic when training schools and state driver services offices were forced to close. Additionally, older drivers who were classified as at higher risk if they contracted COVID-19 had to take time off. Younger drivers (aged 18-20) cannot drive interstate routes and typically cost more to insure. These challenges continue to rise and require innovative strategies for solutions. The American Transportation Research Institute suggests advocating for Congress and federal agencies to develop an apprenticeship program to attract, train, and retain safe 18-20 year old interstate drivers to the industry. They also suggest that unique requirements and issues associated with expanded recruitment of women and minority drivers need to be identified.

An additional issue facing the trucking industry was one highlighted by the Commission in 2019. That challenge is the availability of truck parking in the state. Drivers are continually faced with violating the electronic logs mandate or parking in places which are not designated for trucks and can pose safety risks to the drivers and the traveling public. The Atlanta Regional Commission repeated its presentation on truck parking, highlighting their study on land use and possible solutions to the parking challenges identified in the 2019 report. In the spring of 2020, the Georgia Department of Transportation (GDOT) Office of Planning launched its own analysis of truck parking to identify demand and supply and to forecast future conditions. Initial findings of supply show that 23 percent of privately-owned truck parking belongs to three national truck parking chains: Love's, Pilot, and Flying J. Some fueling stations do provide truck parking but the demand continues to outpace supply, even when accounting for public parking such as the parking provided by rest areas along the state's interstates. The next part of the study will investigate options for innovative public sector investment and policies for short- and long-haul truck parking. The complete findings of this study will be included in the Georgia State Freight Rail Plan Update expected to kick off in the second quarter of 2021.

With increased e-commerce and truck traffic, one solution to the driver shortage is the use of rail to move goods. Rail infrastructure improvement is essential for economic growth in both rural and urban areas of Georgia. In 2020, the General Assembly approved legislation requiring a line item in the budget to identify funding of rail when appropriations were available. With both Class I railroads and short lines operating within the state, there is no shortage of need for investment. The legislature does have to remain mindful of the gratuities clause in the Georgia Constitution which historically has prevented investing in private rail lines. They can, however, invest in the improvement and maintenance of the 426 miles of state-owned short line rail. Since Fiscal Year 2018, $84.7 million dollars in bonds have been approved by the General Assembly for rehabilitation and repair of state-owned rail. Representatives from Sandersville Railroad Company and the Gennessee and Wyoming railroad suggested to the commission that the state double the short line tax credit to a $7,000 per mile credit to incentivize infrastructure investment. Additional investment made through a public-private partnership (P3) was also highlighted as a way to move rail projects forward.

Testimony was given to the commission that freight movement at Georgia's ports would double by the year 2028. It is imperative that infrastructure investment be a priority to both state and federal governments. With the passage of 'The Transportation Funding Act of 2015' and the commitment to rail, road, and bridge bonds at the state level, we look now to the federal government to take action. State departments of transportation continued to advocate for a COVID-19 relief stimulus to provide emergency funding to DOTs and this advocacy paid off. A COVID relief bill was adopted in Congress and signed by the President late in December. The package includes $9.8 billion allocated to state DOTs to continue much needed investment in infrastructure and those needed to administer projects and programs. The United States Chamber of Commerce advocates for a modest increase to the federal motor fuel tax which has not been adjusted since 1993 and is not indexed to keep up with inflation, further compounding the loss of purchase power. The chamber will also push for expanded financing options like P3s for local communities, streamlined permitting processes to get projects off the ground, and the development of a skilled workforce to build the projects.

The commission heard hours of testimony outlining what Georgia is facing as it relates to the freight and logistics industry and how it affects everyone in the state. With all of these challenges and opportunities to continue steady growth while managing impact on industry and citizens, the commission formed recommendations to be considered by the legislature during its next legislative session.

RECOMMENDATIONS:

- To ensure future economic vitality in Georgia and to capitalize on our status as the number one state in the nation to do business, Georgia should seek to:
    - Double the amount of freight currently being carried on rail from 17 to 35 percent;
    - Move Georgia into the top 5 U.S. goods distribution markets;
    - Move from 4th to 1st in the nation for absorbing industrial space;
    - Strive to provide options that maintain speeds of 45 MPH or higher on all interstate highways;
    - Create a freight rail network that allows all Class I railroads to achieve the desired 60 MPH speed;
    - Upgrade short line rail to Class II track classification to standards (286K lbs and 25MPH);
    - Increase transportation capacity in strategic locations around Georgia;
    - Support maintenance progress and repair needs on existing roadways;
    - Relieve regular bottlenecks on Georgia's major freight corridors;
    - Mitigate traffic congestion in urban areas;
    - Increase access to employees for businesses all across Georgia; and
    - Build on existing assets.
- Pursue legislation to further expand Georgia's capability to build major infrastructure projects through the private financing of infrastructure by expanding the role of the State Road and Tollway Authority (SRTA) to be multi-modal. SRTA, in conjunction with GDOT, has demonstrated a strong proficiency in executing major infrastructure projects with private financing components, and their scope should be expanded to include freight and logistics projects as well. It is recommended that these projects would include, but not be limited to, rail projects, truck parking, and economic development projects.

- As those P3 capabilities are expanded, require GDOT to identify projects with freight benefits to ensure they capture all necessary projects without defining so narrowly that the definition cannot keep with the growing freight and logistics industry.
- Define or develop criteria of “public benefit”. The gratuities clause of the Georgia Constitution allows for investment in private infrastructure projects if there is an evident benefit to the public. The Commission believes this is the case with state investment in all forms of transportation infrastructure, including private partnerships, and therefore urges the legislature to define a frame work of what may constitute a public benefit.
- Explore options for a workforce development grant that would allow for industries like commercial truck driving to be advertised in the public schools. Informing students of well-paying job opportunities before they graduate the public school system could assist greatly in keeping them from the gap between high school and post-secondary education and/or employment.
- The commission recommends that in any future emergency declarations, commercial truck driving schools be deemed essential services. During the 2020 pandemic commercial driving schools were forced to close and therefore the industry experienced a gap in training new drivers and the explosion of the demand for goods to be delivered to homes all over the nation. This gap is not something the industry can afford in the future.
- Create a new stream(s) of revenue to be dedicated in a new budget program under the Georgia Department of Transportation. The legislature should clearly define that the purpose for this funding is the growth and development of freight and logistics projects across the state. After hearing two years of testimony, it is the recommendation of this Commission that an additional $1-1.5 billion a year is needed for this purpose. According to the work of the National Surface Transportation Infrastructure Financing Commission, viable funding options could include but not limited to; fuel taxes, mileage-based user fees, other user fees, consumer based pay models such as a price per package on home deliveries from e-commerce providers, or statewide assessment on warehouse distribution facilities. The commission recommends that any funding option not create a competitive disadvantage for any one industry or sector who utilizes the system or be based solely on a single point of entry into the system. To equitably ensure proper participation from all stakeholders, the proper funding mechanism should generate revenue across all modes and points of entry into Georgia’s freight and logistics system. Consideration of additional revenue should be given such that it is commensurate to that participant’s level of economic activity within the system, thereby not creating a disadvantage for small businesses.
- Encourage the Georgia Department of Transportation to conclude its work identifying and prioritizing areas of need for funding and solutions to truck parking availability, then work to address truck parking issues through the possible expansion of SRTA and public private partnership model.

- See Attachment: “Freight and Logistics Subcommittee Report: Funding Georgia’s Infrastructure Future.”

Freight and Logistics Subcommittee Report: Funding Georgia's Infrastructure Future

December 2020

Brad Skinner, Chairman of the Subcommittee; Board Member – OmniTRAX
Russell McMurry, Commissioner, Georgia Department of Transportation (GDOT)
Griff Lynch, Executive Director, Georgia Ports Authority (GPA)
Matt Markham, Deputy Director of Planning, Georgia Department of Transportation (GDOT)

Introduction

Over multiple years Georgia's political leadership has appointed various Commissions to recommend specific steps, including legislative changes and policy goals, to stimulate economic expansion and to align private and public interests. The joint study committee on transportation in 2014, for instance, led to the passage of HB 170, which increased transportation funding in Georgia by a billion dollars a year focused on state assets for good repair.

The Georgia Freight and Logistics Commission established in 2019 represents the most recent example of Georgia's political leadership focusing state government and commercial interests in an effort to keep Georgia economically competitive, increasing job growth and sustaining quality of life for all Georgians. As Lt. Gov. Duncan stated at inception of the Commission's work: "Georgia's economic prosperity has led to huge business and population growth. However, in many areas of our state, that growth has led to highway congestion. The Freight and Logistics Commission will be charged with studying how to harness the logistics industry to provide transportation solutions to Georgia's businesses and citizens." Likewise, Speaker Ralston stated: "With the world's busiest airport and the nation's fastest growing container ports, our Freight and Logistics Commission will work to meet the growing demand to move freight throughout our State and beyond. Georgia has a strong competitive advantage over other states in freight and logistics, and we are going to grow our lead by investing in infrastructure and in bringing industry partners together."

This subcommittee report focuses on the compelling need for accelerating freight and logistics infrastructure investment throughout the State. Prudent development of freight and logistics infrastructure rests upon thoughtful needs assessment, solid strategic planning, quality engineering, and high standards for construction and materials as part of an intentional effort to minimize deferred maintenance and avoid premature replacement of public assets at substantial costs savings to the state over the long term. Georgia may not be able to meet its infrastructure goals with conventional methods of project funding, design, and construction delivery methods. Therefore, this subcommittee is inviting the Commission's consideration of the use of public private partnerships for purposes of delivering state-of-the-art freight and logistics infrastructure in greater quanity and on an accelerated basis.

Desired Outcomes

This presentation focuses on ways to attract increased investment for Georgia over both the short and longer term. This Commission was tasked to think big and to recommend a comprehensive long-term strategic direction for the State with respect to freight and logistics infrastructure. Covid19 and expansion of virtual technology have and will continue to impact sources of revenue, which governments have traditionally relied upon.

Therefore, the Commission’s work needs to culminate with recommendations that provide Georgia with practical solutions requiring alignment among State Executives to include the Governor, the General Assembly, the Georgia Port Authority, the GDOT, with support from the Georgia Chamber of Commerce.

This subcommittee and the total Commission intend to suggest specific options for moving freight and logistics toward state of the art solutions by outlining a plan that will result in public buy-in and support for infrastructure project priorities, that are feasible and which can be realistically funded. Other states like Virginia and North Carolina have experienced rapid growth and faced similar challenges. In those cases they increased DOT staffing in certain areas to focus on rail innovations, overall planning, and created subsequent joint venture solutions for improving the efficiency and flow of freight rail and highway interaction.

Over the years in the public and private sectors, we have learned that wise capital investment in infrastructure makes a significant difference in developing a state economy and for enhancing a higher quality of life for all citizens. By making adequate public investment coupled with attracting the right type of investors, Georgia will be able to: 1) promote the future growth of urban and rural Georgia; 2) encourage collaborative efforts between private and public sectors, and 3) continue to support a comprehensive freight strategy with solutions which keep Georgia in an enviable position, allowing all parts of the State to prosper.

Current and Future Infrastructure Needs for the State Now and in the Future

The Population of the Atlanta Metropolitan Statistical Area (“MSA”) in 1970 was 1,500,823, ranking it number seventeen compared to other MSAs in the US. By 2020, Atlanta MSA’s population is estimated to be 6,020,364, moving its rank to number eight as compared to all other MSA’s in the US.

Georgia’s Population in 1970 was 4,492,400, ranked number fifteenth among other US states. In 2020, Georgia’s population is estimated to be 10,717,980, moving its rank to the number eight position among all US states. According to the Atlanta Regional Commission, the 21-county Atlanta region will potentially add 2.9 million people by 2050, bringing the region’s total population to at least 8.6 million. To put that growth into perspective, it is as if all of metropolitan Denver moved to the Atlanta region over the next 30 years.

Georgia grew rapidly during the latter half of the 1900’s as multiple businesses moved South from Northeastern and Midwestern states attracted by lower labor cost, lower taxes, and by a “business friendly” Georgian work environment that continues to this day. Much of this success can be attributed to Georgia Federal and State leadership, which effectively secured federal infrastructure investment.

Population growth and expansion, though impressive, has brought with it a series of challenges with which Georgia’s government and business leadership must contend with each year. Absent thoughtful, deliberate long-term planning, including an expansion of investment sources, Georgia’s infrastructure and overall economic development could succumb to short-term thinking, patchwork infrastructure solutions, resulting in higher annual maintenance and replacement costs.

It is estimated by the Georgia DOT (GDOT) that basic infrastructure improvements will require over the next 30 years between 135 and 153 billion dollars of investment, which will out-pace traditional funding sources. Cities and counties according to the most recent GMA-ACCG report during the next five years will require 34 billion dollars in new investment, including 14 billion dollars for rural areas.

Georgia reflects a standard reality for areas that have grown rapidly and invested heavily over a relatively short period. All assets have a life expectancy and consistently need to be rebuilt, redesigned, extensively maintained or newly constructed to keep up with the demands of a growing population while supporting quality of life and economic expectations.

To emphasize current infrastructure need, let's look at the ratings of the American Society of Engineers in their 2014 Report Card for Georgia and a 2019 updated rating at the same time (2014/2019).

Aviation B+/B+, **Drinking Water** C+/B-, **Ports** C+/B-, **School Facilities** C+/B, **Transit** D-/D+, **Bridges** C-/C+, **Energy** B/B, **Rail** B/B, **Solid Waste** C+/C, **Wastewater** C/D+, **Dams** D-/D, **Parks** D+/C-, **Roads** C-/C+, **Storm water** D+/C-

It should be noted that some ratings reflect improvement and some declines. It should also be understood; however, that a B rating only suggests Good, while a C reflects "Mediocre." These ratings are for the entire State not just Atlanta.

Hard realities within Georgia today reflect the following needs:

- 1551 structurally deficient bridges in need of replacement
- 630 high hazard dams;
- $21 Billion dollars for drinking water infrastructure needed over the next 20 years;
- 16 hazardous waste priority sites for reclamation;
- $121 million in unmet park needs;
- $275 per motorist annual maintenance for road costs and new roadways; 4% of Georgia Roads in poor condition, likely to increase
- $2.7 Billion for Wastewater improvements over the next 20 years.

Moreover, as the next five to ten years unfold for rail and highways:

1. How will a Savannah River crossing become a reality to support Georgia Ports Authority and the Hutchinson Island expansion?

2. How can Interstates 75, 85 and 20 as well as other high priority highway freight corridors be rebuilt or expanded? Including strategic truck parking facilities.

3. As Class One Rail providers move to 10,000-foot train lengths how can longer train sidings or double track be implemented quickly, which are needed for efficiently moving Georgia imports and exports; likewise how can grade separations be funded or financed and constructed to improve public safety and to avoid local and regional highway traffic delays?

4. How can more inland freight/manufacturing terminals be built as engines of economic growth in the rural regions of Georgia (providing multi-modal freight capabilities, fiber optics linkages for management, digital and relevant skill training, and marketing support for promoting these sites for national and international investors)?

5. How can rural Georgia benefit from short line rail upgrades or from new trackage constructed to provide rail access for manufacturing and agribusiness?

These are but a few of the critically needed projects if Georgia is to maintain its preeminent position as an investment magnet for further manufacturing and service industry jobs.

Investment Funding Challenges

In recent years, the State has outstripped its traditional revenue model and needs to explore innovative methods for new infrastructure, that are sustainable and which meet the quality of life expectations of Georgia's citizenry and workforce.

Like many other states that face limited funding and other fiscal constraints, Georgia must expand its utilization of public-private delivery models as a means for building, maintaining and upgrading infrastructure improvements and thereby avoid making large up-front investments funded through existing tax or bonding capability. Faced with significant infrastructure challenges, this subcommittee was reminded of an old adage: "On occasion if you cannot afford to pay cash for a new house, you may need to acquire a mortgage!" This presentation outlines challenges, potential solutions and proposed next steps for consideration by the Commission as a pathway for further gathering of facts, data and assessment.

Definition: Public – Private Partnership

The United States Department of Transportation uses the following standard definition for a public-private partnership (often referred to as a PPPs, 3P, or P3). Public private partnerships are contractual agreements between a public agency and a private entity that allow for greater private participation in the delivery of a public project. The private entity's participation normally involves the private sector taking on additional project risks such as finance, maintenance, and long-term operation, along with standard risks of design and construction. Public Private Partnerships (PPPs) allow governments and businesses to work together. Governments would shift more responsibility and risk for asset performance to private sources. It would incentivize those sources to deliver a higher quality asset, since the private entity is often charged with maintaining, operating or performing functions for the benefit of the end user taxpayer over the complete life of the asset. In addition, private entities are often able to provide innovative infrastructure solutions that governments are not in a position to deliver. There are many approaches to risk transfer based on project types and complexity. Risk allocation is one important consideration in PPP projects. Public-private partnerships have been implemented in many countries and throughout the United States. PPPs are typically used with respect to two general types of projects. First, PPPs are used for transportation projects, such roads, rail, transit, ports, airport terminals, toll roads and express lanes among others. Second, PPPs are used for projects that are referred to as social infrastructure, such as schools, courthouses, hospitals, and for water and sewer systems, hydroelectric systems, fiber optics for connectivity and economic expansion.

Not all public projects are appropriate for PPP delivery, and each government or government agency usually engages in a value of money analysis to determine whether conventional financing, such as the issuance of municipal bonds, is better suited to an individual project. Many public projects are procured through use of the competitive bid or "low bidder" approach, which also may be appropriate for certain limited types of infrastructure.

When should a PPP be used?

When a value for money analysis confirms the potential benefits of using PPP delivery or if there is some complex engineering or construction risk that is more appropriately transferred to the private sector, then a PPP should be considered as a means of project delivery. Other decision drivers could also be considered such as short-term funding peaks, restrictions on public bonding, alignment with debt management plans, need for innovative solutions, scheduled acceleration and asset life-cycle cost analyses, not typically derived from traditional low bid procurement, and resource allocation for managing the P3 endeavors.

Procurement is accomplished with a Request for Proposal approach. The winning proposer is chosen on a best value basis according to the criteria set in the RFP for that project. This procurement method provides the public entity and the private proposer the opportunity to exchange ideas and discuss alternatives for improvement of a project that may not be known to the public entity, bringing private sector innovation, technology and resources to public assets. This enhanced level of involvement on the part of a private firm in the design, financing and construction of a project is one of the hallmarks of the PPP model. Most PPP's exist pursuant to a lease for anywhere between 25-50 years, and the infrastructure asset most always remains the property of the public entity. Of course, the proposal process provides the public agency the opportunity to evaluate various private financing options and confirms that the private entity is creditworthy for the term of its obligations owed to the public sector. With PPP's it is understood by the public agency or authority that a private party must have a funding plan and dedicated revenues commensurate with the finance profile of the project. Most often a public subsidy is required either at the full project cost plus finance, or projects may revenue share, which would reduce the public subsidy.

Making Public Private Partnership Work Successfully:

The following characteristics are typically associated with successful PPPs from the time of project conception through to the end of the private firm's involvement with a particular infrastructure asset. These include:

- A clearly understood and articulated demand by a government agency and the citizens it serves that private involvement is appropriate for a particular project based on a specific rationale (i.e. project scope, project complexity, need for private financing).
- Overt political support and leadership must be demonstrated by a lead agency or department and championed by all levels of government impacted by a project. All governmental entities need to be aligned. Without this demonstrated support, negotiations between government and private firms may likely never occur, stall or fail prior to financial close.
- Project objectives must be well established and controlled, monitored, measured and compensated (or penalized for failure to achieve) in terms of expected quality, availability and delivery time frames as stated in PPP agreements.
- PPP's are not solely a means of sourcing capital but are also a means of using private capital to facilitate faster project delivery and in utilizing private market solutions.
- An existing legislative and regulatory framework that provides for a government to commit to a project and to a reasonable timeframe for contract execution and project completion is essential.
- Compensation arrangements for qualified proposers due to the cost and benefit of due diligence and extended contract negotiation phases should be contemplated and included as part of the procurement.
- Identification of and a tested means of dealing with legal and other impediments (traditional due diligence items) that create unexpected roadblocks for public private deals needs to occur.
- A strong regulatory framework for management and auditing through a specifically designated Authority needs to be identified.

- Government employees need to be secured who are competent and proficient in negotiating with their own sophisticated legal and financial advisors and with opposite private firms and their advisors.
- It is essential for private firms to demonstrate sound records of accomplishment and experience in the type of assets anticipated, and for possessing sufficient contingencies and reserves for unexpected events.

As a project is procured:

- Clear goals and objectives with success criteria and specifications need to be established from the beginning.
- A complete understanding of each partner's risks, costs, and rewards needs to be understood by the other party. This is key to another critical component: expectation management.
- A competent review of financial tools and methods for funding the project needs to occur and be assessed.
- An understanding and agreement that a capital partner possess an accomplished record of performance and can deliver on promises made.
- A clearly defined process to which both parties understand and commit.
- Clear investment commitments on the part of both public and private partners.
- A periodic way to transparently report with specific measures both internally and publicly as to agreements, modifications, and contracting milestones.

Public – Private Partnerships exist today and include:

- Roads and Highways
  - Georgia (I-75 NWC Express Lanes, 285/400, SR 400 Express Lanes, 285/20 East interchange)
  - Interstate 66 express lanes (Virginia) 50 yr. term, $2.4 billion capital costs, concession payment to VDOT of $571 million.
  - Texas: SH 288 Toll Road, 52-year term, $906 million capital cost, Payment to TXDOT $26 million

    - Texas: North Tarrant Express (3 phases), 52-year term, $4.03 billion capital cost, public funding $635 million
    - Virginia: I-495 Express Lanes, 80-year term, $1.5 billion capital cost, public funding $408 million
    - Florida I-595 Express lanes, I-4 ultimate, Port of Miami Tunnel
    - Central Interstate 70 - Colorado
    - Express lanes & Widening Interstate 77 –Charlotte, NC
- Rail
    - Alameda Corridor (100 Trains/Day taken off of Los Angeles and suburban streets)
    - Transformation of the Mexican National Ferroviaria Noreste Railroad ($1.3 billion invested by US investors in 1994, today the same property is worth an estimated $18 billion). This project economically transformed multiple rural cities into import and export centers throughout Mexico.
    - GPA creation with CSX of an inland terminal at Chatsworth, which is transforming the development of NW Georgia for imports, exports and national distribution.
    - Tower 55 (UP and BNSF) with State of Texas to improve rail and highway efficiency and propel rural economic development.
    - Texas-Pacifico Expansion of a new bridge with the State of Texas over the Rio Grande River.
- Ports and Airports
    - Mega Rail Transformation at GPA Garden City Terminal in Savannah
    - Sparrows Point Redevelopment (Private Equity and State of Maryland)
    - Revenue Bonds which financed multiple airports throughout the country
    - LaGuardia International Airport (Vantage Airport Group)
    - Los Angeles Airport, CONRAC (Consolidate Rental Car Facility)
    - Westchester County Airport (New York)
- Justice and education
    - Miami Court House (in procurement)
    - University of California Merced
    - Governor Deukmejian Courthouse – Long Beach, California
    - Fiber Optics Broadband – Throughout Kentucky (3,200 Miles of network – bonds and equity

When Public Assets are built both parties, need to understand:

- That the risks and interests must be aligned and understood (public and private).
- The public in nearly all cases retains long-term ownership of the project.
- Private firms only invest money with an expectation of a reasonable return on that investment.
- As risk is transferred to a private source greater strategic thought and assessment will be focused on quality design, sustainable maintenance, and optimal construction, customer service and highly efficient operational techniques as well as the life of the asset versus private sector benefits needs to be articulated and assessed.

Current Limitations for Utilizing Private Partnerships in Georgia:

- A contract cannot be executed that binds a future legislative body, agency or department to that contract's obligations. This inhibitor has traditionally been used to limit authorizing debt, intergovernmental contracts, and proprietary contracts.
- Any contract obligating local government or government resources beyond current available funds is considered a debt, which requires a voter referendum.
- For a local government in Georgia, an annual appropriation lease or purchase contract is limited to a value of twenty-five million dollars. The prohibitive contracts clauses keep longer-term solutions on hold.
- General Obligation debt for local jurisdictions requires a voter referendum and is limited to 10 percent of an existing tax base. At the State level, the general obligation debt is through appropriations.
- Revenue Debt is payable solely for revenue of prescribed undertakings (Scope and time needs to be defined).
- A government may not lend or pledge government credit or guaranty private parties (public works projects)
- A government may not appropriate or grant funds that constitute a gratuity to private parties. The Supreme Court of Georgia has however allowed some variance if a project which demonstrates providing a public value.

Current Means of Delivering Public Infrastructure Using PPPs

- Local Governments, State Government and its Agencies can use a combination of intergovernmental agreements, permitted by the

Intergovernmental Contracts Clause of Georgia's Constitution, and legislatively created authorities to enter into Public Private Partnership contracts with private entities.

- Georgia's Courts have determined that contracts entered into by state and local governments and their agencies pursuant to intergovernmental agreements do not subject such agreements to the restrictions and prohibitions contained in Georgia's Constitution.
- Georgia's Courts have further determined that legislatively created authorities are not subject to certain statutory and constitutional impediments that would otherwise prohibit government and its agencies from contracting with private entities directly. These authorities must possess proper powers for specific purposes granted by the General Assembly.

Such intergovernmental contracts are limited to 50 years, which is an adequate period of time for a private entity interested in a public private investment to contract for a return on that investment.

Conclusions Consistent with HB 935

- The subcommittee believes that large-scale freight and logistics investments will be a necessary part of the state's overall infrastructure strategy during the years ahead if Georgia is to retain and expand its economic competitiveness.
- The subcommittee has identified examples of projects that are potential candidates for P3 delivery in Georgia. Expansion of P3 possibilities include expanding to rail, roads, airports, land ports and sea ports.
- The Commission heard in several presentations perceived impediments of P3 infrastructure projects due to the State Constitution's prohibition on gratuities. It was concluded by the subcommittee that modification of any one constitutional (or statutory) impediment is the least effective way for achieving needed freight and logistics infrastructure projects in reasonable timeframes. Rather, utilization of intergovernmental agreements and proper statutory authorization for existing state authorities could be utilized as the primary tool for implementing public private partnerships in the targeted area of freight and logistics infrastructure.
- The Georgia DOT (GDOT) and the State Road &Tollway Authority (SRTA) have provided successful models for advancing and maintaining infrastructure projects within Georgia and these models could be replicated for assessing and for negotiating an approach for greater private investment in public projects and for initiating focus on freight and logistics improvements. The GDOT's MMIP management system has produced planning and construction

projects exceeding 11 billion dollars in critical infrastructure projects by leveraging public private partnerships. Georgia's positive results are reflected in express lane networks throughout metropolitan Atlanta and through expanding back office operations at SRTA. For example, the I-75 CVL project will create dedicated commercial vehicle lanes to improve logistics along a critical inter-modal corridor. It is not to be tolled, but restricted to commercial vehicles, and access is restricted. The collaboration of GDOT and SRTA in delivering MMIP demonstrates how intragovernmental collaboration can result in positive outcomes for the state. When that collaboration is coupled with the use of an Authority using IGA's to contract for PPP's, this example provides a look into the future of enhanced freight and logistics infrastructure related to highways and bridges.

- The Georgia Constitution's intergovernmental contracts clause ("IGC") and subsequent creation by the Georgia Legislature for an Authority does and could allow for PPP contracts with private entities for up to fifty years in providing solutions for addressing the significant needs of Georgia infrastructure. This course of action is possible for the following reasons:
- The IGC provides for the following: "The state, or any agency thereof…may contract with any other public agency, public corporation or **public authority** for joint services, for the provision of services, or for the joint or separate use of facilities or equipment; **but** *such contracts must deal with activities, services, or facilities which the contracting parties are authorized by law to undertake or provide*." When the state government, local government or public agency enters into an IGC with an Authority, the governmental agency or entity is NOT subject to the following statutory impediments to PPPs:
- Pledge of credit clause of the Ga. Constitution – a governmental entity may not unconditionally pledge its full faith and credit to support its contractual obligations
- Debt limitations clause of the Ga. Constitution.
- Rule against binding successors in office.

Recommendation

- It is recommended that the GDOT serve as the State's Freight and Logistics planning agency while incorporating GPA's strategic plan, plans from the MPO's, Regional Commissions, Airports and Railroads as well as leveraging strategic partnerships with the Department of Community Affairs (DCA) and the Georgia Department of Economic Development (GDEcD). This combined planning effort should indicate programs or project types that could utilize private resources for significant infrastructure projects.
- It is recommended that utilization or modification of existing Authorities is the most advantageous course of action to pursue related to private investment. Therefore, it is recommended that the powers of various existing state authorities be further explored and or potentially modified such to take advantage of the Georgia Constitution's Intergovernmental Contract Clause, and to enter into contracts for PPPs for freight and logistics infrastructure when appropriate for a particular project. That Authority would have the following responsibilities:
- P3 contracting authority for freight & logistics projects involving rail, airports, truck parking, site development and inland ports that support economic growth throughout Georgia.
- Reliance on the GDOT's Freight and Logistics Plan to identify infrastructure projects of significant impact to the State.
- As needs assessments and potential P3 projects are identified by GDOT and GPA, the Authority would solicit interest in such projects from private entities capable of designing, building, financing, maintaining and operating such projects.

Funding for projects could be via general fund appropriations, equity funds, EDGE funds or IGA's with others; State & Local governments, local-government authorities, joint or multi-county development authorities, lending institutions and airport authorities are qualified applicants.

- The appropriate Authority would become a financing tool for public infrastructure improvements for ports, rail, site development, and for broadband fiber throughout the State.
- The Authority would solicit projects for consideration for advancement by State & Local governments, local-government authorities, joint or multi-county development authorities, lending institutions and airport authorities that are qualified applicants. The Authority would access the viability of private funding and work with sponsors on financial planning.

- It is recommended that the state explore opportunities to more fully utilize discretionary Grant funding or federal loan programs to include:
- Consolidated Rail Infrastructure and Safety Improvements (CRISI): GDOT was awarded $7.9M representing a 50% share of project cost on 2019. Sustainable funding is recommended for GDOT's Intermodal Division to leverage additional CRISI grants.
- Rural Transportation Infrastructure Finance and Innovation Act Loans: Loans $10-$75M that finance up to 49% of eligible cost in areas of population less than 150,000: eligible for roads and bridge, inter modal connectors, freight transfer facilities, ports, airports (under some circumstances). Consideration of this tool should be given by GDOT, GPA, Local Governments, other authorities and the private sector.
- Other federal funding opportunities that may be available.

Critically important and underscoring all recommendations of the subcommittee are the need for funding that supports repayment of private capital for development of P3 projects as well as for any public debt financing of projects. The State, Authority or Agency must ensure that the delivery of projects do not adversely affect the overall debt profile of the State.

The Subcommittee requests that the Commission review these recommendations and that the Commission forward this Subcommittee Report as an addendum to the Commission's submittal for Georgia General Assembly consideration of adoption during its 2021 Session.

Respectfully Submitted:

Brad Skinner, Chairman of Sub-Committee; Member, Board of Directors of OmniTRAX

Russell McMurry, Commissioner, GDOT

Griff Lynch, Executive Director, GPA

Matt Markham, Deputy Director of Planning, GDOT

APPENDIX ONE: Private Equity Interest Principles Expressed

Throughout the month of October, several large well-established private infrastructure equity and debt funds were interviewed. Many of the funds have financed airports, ports and port terminals and storage yards, rail infrastructure, bridges and tunnels, intermodal terminals (inland ports), toll roads and expressways, broadband and fiber optics acquisition and deployment, utilities (water and sewer), and real estate transformational projects throughout the world. The funds are highly professional, straightforward, ethical, and capable of engagement with innovation and solutions. They all will want to see and hear a commitment for the following:

- That no structural or policy impediments exist that would make Public, Private Partnerships difficult.
- That the governmental authority possesses experienced staff who can speak with authority and who can make decisions within a clearly defined framework.
- That a real need exists, that the need is quantifiable and will have a measurable impact on markets and a positive impact on a population.
- That a project has clear outcome objectives, that alignment, and a consensus framework exists at all levels of government or agencies affected.
- That potential terms are clearly defined and are capable of measurement
- That a fair return for investment and a rational capital risk can be understood and accepted by all negotiated partners.
- That there needs to be a clear pathway and timeframe for moving forward, for initial completion, and for managing the project going forward.
- Investment can continue to support owned public entities or concession granted ownership.
- They have all accomplished Public, Private Partnerships and have a record of accomplishment.

All funds interviewed are willing to provide advice and thoughtful innovation, and if not interested in a project would suggest others who would have an interest in the United States from Europe or Asia. There is a well-known community of PPP participants who are capable, competent, and ethically reputed.