



2011 WRAP UP EDITION

Reviewing the budget and legislative issues of concern to older adults

Sine Die! Thursday, April 14th, marked the 40th and final day of the 2011 General Assembly session, the first year of the two-year legislative cycle. Governor Deal has invited the legislators to come back August 15th for a special session to consider reapportionment. (The 2010 census brings Georgia one additional seat in the U.S. Congress.)

This Special Edition of the *Senior Issues Newsletter* recaps the activity throughout the legislative session and is organized by the type of issue or impact on Georgia's elderly population:

- ✓ State Budget
- ✓ Tax Issues
- ✓ Senior Housing Options
- ✓ Health Care
- ✓ Transportation
- ✓ Advocacy/Legal Issues

State Budget Update

First, we want to give a special **THANK YOU** to the leaders who listened to their constituents and advocates, studied the impact of budget cuts, and advocated for funding for aging services – vital programs, such as respite care, home-delivered and congregate meals, vision care, and Medicaid benefits. Their concern for elders and their caregivers and their knowledge of the importance of services was evident throughout the committee meetings and floor sessions. *THANK YOU...*

- Senator Jack Hill*, Chair, Senate Appropriations Committee
- Senator Renee Unterman*, Chair, Senate Approp. Human Development Subcommittee
- Senator Greg Goggins*, Chair, Senate Approp. Community Health Subcommittee
- Representative Terry England*, Chair, House Appropriations Committee
- Representative Penny Houston*, Chair, House Approp. Human Resources Subcommittee
- Representative Butch Parrish*, Chair, House Approp. Health Subcommittee and Staff of the Senate and House Finance Budget Offices

Supplemental FY2011 Budget

The Supplemental FY 2011 budget, **HB 77**, was signed by the Governor on March 9th. He agreed to the 4th quarter funding restorations for certain aging programs (Center for Visually Impaired, community based respite services, nutrition services, and optional Medicaid benefits of vision, dental and podiatry). Following the supplemental FY2011 budget becoming law, the Division of Aging Services immediately notified the Area Agencies on Aging about their available funds for the 4th quarter. Again, thank you to the House and Senate and to Governor Deal for restoring these funds.

FY2012 Budget

On April 12th, both the House and the Senate agreed to the following budget items impacting senior programs and services:

CO-AGE Priority: Funding for Home and Community Based Services

- \$10,583,337 Increase State funding for Elderly Community Living Services overall budget to replace lost American Recovery and Reinvestment Act (ARRA) funds
- \$1,376,718 Non-Medicaid Home and Community Based Respite Services – funding restored in full
- \$1,045,000 Elderly Nutrition Programs – increase State funding for Meals on Wheels programs to replace lost ARRA funds
- \$6,163,079 Optional Medicaid benefits of dental, vision, podiatry – funding restored in full
- \$225,000 Alzheimer's Respite Services – funding restored in full
- \$177,859 Center for Visually Impaired -- funding restored in full
- \$5,000 Additional programming for Georgia Council on Aging member travel

The Governor has 40 days from April 12th (the date of passage on HB 78) to sign this legislation. He has line item veto power for Budget Bills.

BUDGET (continued)

While Georgia maintains a “continuation budget,” there were proposals for *Zero-Base* Budgeting (HB 33/SB 33) where select State agencies would be required to build their budgets initially and justify all expenditures no more often than every 4 years but at least once every 6 years. A Conference Committee was assigned on Legislative Day 40 to work out differences between the House and Senate versions of Zero-Base Budgeting, but apparently not in time for a bill to be sent to the Governor.

The Georgia Budget Policy Institute, a non-partisan organization, provides white papers and thoughtful analyses of budget and tax issues impacting Georgia. www.gbpi.org

House and Senate Budget Documents are posted on-line throughout the budget process:

http://www1.legis.ga.gov/legis/2011_12/house/budget/budgetDocs.htm

http://www.senate.ga.gov/sbeo/Documents/AppropriationsDocuments/FY2012/General/FY12G_House_HumanDevelopment.pdf

http://www.senate.ga.gov/sbeo/Documents/AppropriationsDocuments/FY2012/General/FY12G_House_CommunityHealth.pdf

Tax Issues

High Profile Tax Reform

With Georgia’s requirement to maintain a balanced budget, revenue is obviously a critical component; so much of the legislative session was spent wondering whether comprehensive tax reform would move forward in our state. First, in 2010 the Special Council on Tax Reform and Fairness for Georgians drafted a report with numerous recommendations which, when taken together, were designed to be revenue neutral while cutting individual and corporate income tax rates. A legislative Joint Committee on Georgia Revenue Structure began to work through the tax bills which contained the recommendations of the Special Council (**HBs 385-388**). Finally, on April 11th, it became apparent that time was running out to accomplish major tax reform, and the House stopped its deliberations. There is speculation that tax reform considerations will resume when the Legislature returns in August to debate reapportionment. As for items impacting Georgia’s seniors, advocates and other tax experts expect:

- ✓ Exemption of retirement income up to \$35,000 will likely remain intact
- ✓ Tax on groceries unlikely (food and food ingredients)
- ✓ No additional cigarette tax to raise revenues

Incremental Tax Changes

Dozens of other tax bills were introduced this Session, although only a few passed both chambers. The House and the Senate have approved the following bills of potential interest to seniors:

HB 117 Added a sales and use tax upon **Medicaid program SOURCE** (Service Options Using Resources in a Community Environment) community-based providers to be segregated in the Indigent Care Trust Fund and used by the General Assembly for obtaining federal medical assistance for long-term care services (including nursing homes). The apparent goal is to add revenue to the budget by attracting additional federal Medicaid funding. It remains unclear how the General Assembly will direct spending of accumulated funds. *This bill also is an example of the legislative process of attaching one bill to another bill. It was added on late in the session to a simple bill* sponsored by Crawford (16th) clarifying who the “Seller” is in real estate closing documents for purposes of withholding tax on sale of real property. The bill was carried in the Senate by President Pro Tempore Tommie Williams (19th).

HB 168 Sponsors: Knight (126th), Channell (116th), Holt (112th), carried in the Senate by Balfour (9th). This bill takes “dietary supplements” out of the definition of **food and food ingredients**, and removes hearing aids from the definition of “prosthetics” in sales and use tax law. These measures appear to be taken so that Georgia will conform to the Streamlined Sales Tax Agreement, a national initiative. The result is that vitamin supplements and other nutritionals would be subject to sales tax, but not hearing aids. The Georgia Budget Policy Institute estimates that other provisions of this bill relating to high wealth individual tax rates and corporate tax deductions may cost Georgia \$65 million in revenue. **HB 103** (Stephens 164th), was dropped early on but had no movement in this session. This bill exempted food and food ingredients from sales tax, in anticipation of comprehensive tax reform including a tax on groceries. Taxing food and medicines is particularly detrimental to the elderly.

Additional Resources: Special Council on Tax Reform and Fairness for Georgians <http://fiscalresearch.gsu.edu/taxcouncil/index.htm> & Georgia Budget Policy Institute: www.gbpi.org

Senior Housing Options



CO-AGE Priority Assisted Living: Creating Residential Options

On “Sine Die” Legislative Day 40, April 14th, at 9:38 p.m., the Senate voted 49-0 to accept the House version of **SB 178** (Sponsor: Grant (25th) and others, carried in the House by Purcell (159th)). The bill now goes to the Governor for signature. *Advocates wish to thank Senator Grant and Senator Renee Unterman and Representatives Ann Purcell, Sharon Cooper and Chuck Martin for their outstanding advocacy for seniors as evident by SB 178 and HB 405.*

SB 178 has the support of a broad coalition of stakeholders and senior advocacy groups, including the Georgia Council on Aging, the Coalition of Advocates for Georgia’s Elderly, the Health Care Association of Georgia, the Georgia Gerontology Society, Senior Citizens’ Advocacy Project, the Alzheimer’s Association Georgia Chapter, AARP, Assisted Living Facility Association – Georgia, Aging Services of Georgia, Georgia Association of Community Care Providers, Assisted Living Association of Georgia, and others.

Right: Genia Ryan, Director of ALFA-GA, Jon Howell, Executive Director of HCA of GA, and Kathryn Fowler, Director of GCOA exemplify the diversity of the coalition which worked to pass SB 178.



Continuing Care Retirement Communities (CCRCs)

SB 166 Sponsors: Stone (23rd), Mullis (53rd), Jeffares (17th) and carried in the House of Representatives by Jacobs (80th) is a complex bill focused on both providers and consumers. CCRC providers will have more stringent financial disclosures and reserve requirements. Residents will be provided more consumer protection through disclosures to describe investment in the CCRC. This bill passed both the Senate and the House.

“Georgia Certified Retirement Community Program”

SB 86 Sponsors: Ginn (47th), Miller (49th), Williams (19th), Rogers (21st), Murphy (27th), Gooch (51st), carried in the House of Representatives by Powell (29th). This bill was amended to include what was HB 76, the Georgia Certified Retirement Community Program designed to attract retirees to Georgia and assist communities with developing and marketing senior living options under the guidance of the Department of Community Affairs. An initial plan to pilot the program in Milledgeville area was altered to make the program statewide. *This bill also changes the definition of “qualified local government” to remove from it a requirement to prepare comprehensive plans -- of some concern to advocates because these plans were a way that local governments could consider, and effectively plan for, their aging populations.*

Mental Health – Community-based Crisis Stabilization Units

HB 343 Sponsors: Cooper (41st), Huckaby (113th), Collins (27th), Carter (175th), Houston (170th), Howard (121st) and carried in the Senate by Grant (25th). The House agreed to a Senate substitute to this bill on April 14th, creating crisis stabilization units, short term residential programs for detox or psychiatric stabilization. Mental health disorders often affect the elderly and this bill encourages more home-like settings for temporarily living outside of institutions.

Health Care

Several health care bills passed both the House and Senate, including some that were designed to slow the implementation of Federal health care reform.

HB 47 Sponsors: Ramsey (72nd), Meadows (5th), Maxwell (17th), Sheldon (105th), Peake (137th), Lindsay (54th), carried in the senate by Rogers (21st). Allowing **out-of-state health insurance policies to be sold in Georgia**; the bill that passed the House had several amendments required by the Senate, including a requirement for policies to show a side-by-side comparison of the policy’s benefits compared to Georgia insurance policy benefits. There is much concern among

health care advocates that employers will opt for less expensive and less comprehensive insurance policies for their employees, who will not have a voice in choosing that option.

HB 214 Sponsors: Channell (116th), Parrish (156th), England (108th), Cooper (41st), Sheldon (105th), Huckaby (113th) and carried in the Senate by Unterman (45th). This bill **creates a new Department of Public Health** and removes the Division of Public Health from the Department of Community Health.

HB 275 Sponsors: Cheokas (134th), Cooper (41st), Carter (175th), Clark (104th), Harden (147th), Purcell (159th) and carried by Goggins (7th) in the Senate. This bill seeks to **clarify the health care providers authorized to effectuate an order not to resuscitate (DNR)**, including a proxy caregiver. It also clarifies how providers are made aware of a DNR order, including that DNR bracelets *may* be worn and must be prominently displayed in a written notice placed in the home.

HB 99 Sponsors: Clark (104th), Cooper, (41st), Sims (119th), Rynders (152nd), Parsons (42nd), Kaiser (59th) and carried in the Senate by Unterman (45th). This bill requires **fingerprint record checks for applicants for licensure as a licensed practical nurse (L.P.N.)** as is already required for R.N.s..

SB 17 Sponsors: Golden (8th), Goggans (7th), Shafer (48th) and carried by Smith (131st) in the House. This bill requires the Governor to appoint a 16-member **Special Advisory Commission on Mandated Health Benefits** to study existing benefits and assess the social and financial impacts of certain mandated benefit requirements of Federal Health Care Reform (the Affordable Care Act). The Commission would be comprised of two citizen members, a physician, dentist, a chronic disease specialist, health care executives, a health insurer representative, the Georgia Association of Health Plans, a medical ethicist, and members of the subcommittees of the House and Senate responsible for health care and insurance. This bill was passed after Governor Deal pulled legislation to set up a federally-mandated Health Exchange.

HB 461 Sponsors: Jasperse (12th), Meadows (5th), Bearden (68th), England (108th), Williams (4th), Dutton (166th) and carried by Bethel (54th) in the Senate. Creates a **Health Care Compact**. In response to Federal health care reform, this bill allows Georgia to form alliances with other states as a way for the State to set its own health policy initiatives.

Additional Resources: Georgians for a Healthy Future: <http://healthyfuturega.org/>

Transportation

Transportation is a key issue for the elderly who desire to age-in-place, and for a brief period early in the discussions about the Amended FY2011 budget, it appeared that a \$1.2 million proposed cut to the Administration budget of the Department of Human Services would have cut elderly transportation programs, but leadership and the Governor quickly concluded that was not the intention. In addition, the 2011 Georgia General Assembly session did not see any significant legislation related to transportation services. As a reminder, last year, HB 277, **Georgia 2020 Transportation Act**, was signed by the Governor effective June 2, 2010. It created the Georgia Rural and Human Services Transportation Plan whereby 12 regions in the State would vote on transportation projects by region, along with a 1 percent sales tax to fund them. Most regions are busy compiling their project lists.

Individual Advocacy/Legal Issues

SB 134 (Sponsor: Hamrick, 30th, carried in the House by Willard, 39th) has been sent to the Governor for signature. The bill:

- Makes technical corrections to guardianship/conservatorship language relating to workers compensation
- Amends the 2010 Trust Code to provide that a person appointed to enforce a trust for care of an animal is a “qualified beneficiary”
- Permits a “Miller Trust” used for receiving income for Medicaid recipients under 42 U.S.C. Section 1396p(d)(4)(B), may be created by an agent acting for the settler if the power of attorney does not contain an express authorization to create or declare a trust

The following bills were not passed in time to become law but are still viable for 2012 Legislative Session:

HB 229. Sponsor: Cooper (41st). This bill **prevents the Department of Community Health from overturning hearing officers’ decisions**, which will assist advocates who help clients with Medicaid eligibility or Medicaid benefits. If DCH disagrees with the administrative law judge’s decision, DCH can and does often issue a different decision in its own favor, requiring the individual to go to court to reinstate the administrative law judge decision. On March 11th, the

House Judiciary Committee favorably reported out a substitute version of the bill. On April 14th, the House withdrew the bill and recommitted it to Committee.

HB 278. Sponsors: Bearden (68th), Cooke (18th), Roberts (154th), Powell (29th), Clark (98th), Braddock (19th). This bill would clarify the entitlement to nourishment or hydration of a person receiving health care and **amend the standard form of Georgia Advance Directive for Health Care to provide a presumption of hydration and nutrition** if the intention of the patient is not known by the agent through other means.

SR 19 (Sponsor: Hill, 32nd) creates a **Senate Study Committee on Advance Directives**, including studying the uniform use of POLST (Physician Orders for Life Sustaining Treatment) in hospitals.

SB 260. Sponsors: Ramsey (43rd), Brown (26th), Carter (42nd), Shafer (48th), Butler (53rd). This bill would require any **general power of attorney adopted by an elder** after January 1, 2012 **to be filed with probate court** in order to be valid and would require the court to accept the electronic filing of wills.

HB 446. Sponsor: Mitchell (88th). This bill would clarify the **immunity of financial service employees** who are acting in good faith to seek information **to guard against fraud against elderly and disabled adults.**

SB 196. Sponsor: Seabaugh (28th). This bill would exclude from the definition of “private home care provider” contractual arrangements with independent contractors. The Senate Health & Human Services Committee tabled this bill on March 10th.

What's Next?

The Governor has a team of advisors that will assist him in reviewing legislation that comes for his signature. He must sign within 40 days of final passage for the bill to become law.

Any bill not passed by both the House and Senate this Session returns to the assigned committee for consideration in 2012 and must still pass the Rules Committee before the bill can go to House or Senate floor.

Department of Human Services and Department of Community Health monthly Board meetings
Department of Community Health Board: May 12, 2011
Meets every 2nd Thursday of each month at 10:30 a.m. on the 5th Floor at 2 Peachtree.
Department of Human Services Board Meeting: May 18, 2011
Meets every 3rd Wednesday of each month at 1:00 p.m. on the 29th Floor at 2 Peachtree.

SAVE THESE DATES

CO-AGE Meetings
Thursday, April 28th at the South Georgia Technical College in Americus
Thursday, July 28th, Macon, GA (the annual priority setting meeting)

For more information, contact Eric Ryan, Georgia Council on Aging office:
404-657-5344 or joryan@dhr.state.ga.us.

Information about specific legislation: Georgia Council on Aging (404)657-5343.
Bills and information about the General Assembly: www.legis.ga.gov/en-US/default.aspx.
Copies of bills: House Clerk's office (404)656-5015.