

GEORGIA LOCOMOTIVE FUEL TAX POLICY

Introduction

The Georgia Locomotive Fuel Tax was established under, O.C.G.A. §48-8-78 and specifies that taxes collected under this code section be used for “freight and logistics projects”, which is defined as “any project for capital construction and maintenance on freight rail assets owned or leased by a common carrier regulated by the United States Surface Transportation Board and found to be an expenditure of ample consideration for a substantial public benefit pursuant to subsection (f) of Code Section 32-2-41.3.” The code section further specifies that “[s]uch appropriation shall be allocated for freight and logistics projects based upon a formula developed by the commissioner of transportation which shall include consideration of total track miles operated within the state; any other factors as determined appropriate by the commissioner”.

Separately, yet related, the Georgia Freight Railroad Program (also referred to herein as the “Program”), enacted by the legislature during the 2020 Session of the Georgia General Assembly as Section 32-2-41.3 of the Official Code of Georgia (“O.C.G.A”), also statutorily subject to appropriations, is composed of three sub-programs:

1. *Rail Enhancement Program* - may acquire, lease, or improve railways or railroad equipment, including rail crossings, rolling stock, rights of way, or rail facilities.
2. *Rail Preservation Program* - may acquire, lease, or improve short line railways or assist other appropriate entities to acquire, lease, or improve short line railways. For purposes of this sub-program, O.C.G.A. §32-2-41.3(a) defines “Short Line Railroad (SLR)” as “any carrier designated as a Class III by the Surface Transportation Board.”
3. *Rail Industrial Access Program* - may build, construct, restructure, or improve industrial access to railroad tracks and related facilities.

Distribution of Funds

It is the determination of the Commissioner that the funds collected under the Locomotive Fuel Tax shall generally be distributed as follows through a grant process:

- 67% of all such funds shall be distributed to the Class I operators by way of a Memorandum of Agreement (MOA) upon approval of a project proposal for which the funds will be utilized.
- 33% of all such funds shall be distributed among the shortline railroads in the state of Georgia, in accordance with the processes set out in the Georgia Freight Railroad Program.

Per O.C.G.A. §48-8-78, other factors, including but not limited to GDOT rail program administration and GDOT-owned shortline rehabilitation project funding, as determined appropriate, may be considered by the Commissioner to determine final distribution amounts.

Grant Applications

1. All proposals and applications must be submitted to the Rail Program Manager, Intermodal Division within 30 business days after commencement of the application period and in the manner set out in the application.

2. Applications will be reviewed and those meeting the grant requirements will be forwarded to the Rail Program Evaluation Committee (RPEC) for review and consideration. The specific submittal requirements are set out in the Application.
 - 2.1. The Commissioner will establish an RPEC and appoint members to that committee who are charged with conducting the application review process, evaluating proposed projects, and making recommendations for approval of the Commissioner.
 - 2.2. An additional review period may be requested if the number and complexity of the applications submitted warrant additional time. GDOT Rail Program staff may conduct preliminary reviews of all applications and conduct on-site visits.
 - 2.2.1. Final award determinations shall consider the potential for future public use of the property and/or the cost thereof in relation to the prospective rail use, and other economic and public benefits, and the common good of the State or a region of the State.
3. The selection of eligible projects will be administered under leadership of the GDOT Commissioner providing ample consideration of substantial public benefit in compliance with Article III, Section VI, Paragraph VI (a) of the Georgia Constitution. Other considerations in determining funding include (but are not limited to): blocked crossing reduction, state of good repair, freight volume or carloads handled, safety improvements, closure of illegal crossings, financial hardship, and other factors as deemed appropriate.
 - 3.1. In determining the substantial public benefit of a project, the Commissioner may rely on any evidence provided in the application for the project. Evidence that may be considered includes, but is not limited to, enhanced public safety, enhanced mobility of goods, congestion mitigation, enhanced trade and economic development, improved air quality or land use, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation.
4. The Commissioner will determine the final list of projects recommended for funding, based on the Committees recommendations, or based on his/her own determination and consideration of the project and its substantial public benefit. Notifications will be made within 60 days from application closing date.
5. Grant award and funds will be provided in the form of:
 - 5.1 A MOA will serve as the official Grant Award Document with each Railroad selected for funding, detailing the specific sources and uses of funds as detailed in the application.
 - 5.2 The recipient of the grant award will be required to operate and maintain tracks and facilities, and/or property and to the payment of any costs related to the future relocation or removal of such tracks and facilities.
 - 5.3 Where applicable, the recipients or their subcontractors shall also be contractually committed to provide for the continued operation of rail service as a common carrier and to assume all liability in connection with the implementation and operation of the project.

6. The GDOT share of total costs for projects funded under this Program shall be determined commensurate with the understood benefit/cost of the application. Benefits to be considered shall be consistent with those listed under the Program. The estimated total cost of a project must be based on the best available information including engineering studies, studies of economic feasibility, and environmental analyses.
 - 6.1. Awards under this Program may be used as matching funds for non-state grants, including Federal grants, obtained by the applicant. However, the funds may not be used to provide more than 70 percent of the local share of State matching fund requirements for any such grants.

7. Following the end of each fiscal year, the Commissioner, or his or her designee, will submit an annual report on the distribution of the Locomotive Fuel Tax funds to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives and shall make such report available to the members of the General Assembly.