



Final Legislative Update

Volume 20, Number 14– June 16, 2010

2010 Session of the General Assembly Ends

Each year, the Association County Commissioners of Georgia (ACCG) compiles a final Legislative Update to summarize the legislation of importance to counties that was passed by the Georgia General Assembly and signed or vetoed by the Governor. This Legislative Update is designed to serve as your guide to legislation from the 2010 session of the Georgia General Assembly and includes a brief summary as well as effective dates for each of the legislation.

ACCG thanks county officials for their interest and involvement in the 2010 legislative session. The county network is a vital component of the ACCG legislative team. By staying informed on progressing legislation and keeping in touch with your state legislators, you can have a definite impact on the outcome of specific legislation.

Guided by the 2010 County Platform, the ACCG legislative team had a successful year by addressing many priorities identified by county officials through the consensus building policy development process. The cycle begins again in this summer as county officials from throughout the state come together to discuss issues for the 2011 legislative session during Policy Committee meetings.

ACCG encourages you to take some time this summer to meet with your state legislators. Building relationships with your counterparts at the state level will facilitate better communications when they are at the Capitol during the legislative session. Work with your surrounding counties to coordinate a roundtable between state and local officials to discuss issues and share perspectives. You also may want to meet with candidates seeking state office to learn their position on local government issues and educate them on your county's concerns.

The ACCG policy team stands ready to assist you in any way. Watch for the new ACCG Capitol Connection electronic newsletter that will serve as your way to stay informed about the work of the policy staff and other legislative issues throughout the rest of the year.

Legislation Passed

ECONOMIC DEVELOPMENT & TRANSPORTATION

[Staff: Matt Hicks]

HB 277 Regional Transportation Sales Tax (Conference Committee Report)

This legislation allows for a one-percent transportation sales tax approved regionally. The referendum to approve the tax is scheduled statewide, except in regions that opt out before the referendum, in the summer of 2012. Regions are based on Regional Commission boundaries and unique lists of projects will be developed in each region based on state priorities and local input. A new regional roundtable made up of county chairs and a mayor from each county will be set up this fall. The roundtables will meet to approve a project list or may decide to opt out of the tax. Voters may also reject the tax in their region. However, minimum match requirements for state transportation funds will be higher in regions that opt out or where voters do not approve the tax. A percentage of the overall revenues collected in each region (15% in metro Atlanta; 25% in every other region) will be returned directly to counties and cities based on a modified LARP formula for discretionary transportation projects. In addition to the regional sales tax, this legislation establishes a statewide human services transportation coordinating council and a metro Atlanta transit study commission. For a detailed summary, [click here](#).
Effective Date: June 2, 2010, except the effective date for the portion of the legislation containing the call for the election is January 1, 2011.

HB 396 Remove Citation Reporting Fee (Rep. Tom Graves, 12th)

This legislation is a Georgia Department of Driver Services legislation. ACCG opposed Section 10 of the legislation, which made the 40 cent per electronic report counties receive when transmitting citation reports to the Georgia Department of Driver Services subject to appropriations by the General Assembly. No funds were appropriated for this purpose in the FY10 or FY11 budget. In FY08, counties and cities received approximately \$400,000, which was intended to cover the costs of complying with this mandate.
Effective Date: July 1, 2010

HB 1174 GDOT Truck and Weight Limit Legislation (Rep. Jon Burns, 157th)

This Department of Transportation legislation amends state law to conform with federal law by increasing the maximum length of certain tractor semitrailers from 75 feet to 97 feet and allowing a modular unit transporter to carry two modular housing units if it meets certain requirements. If a weight limit citation is issued on a superload plus permit, the penalty assessed is only based on the excess weight greater than that allowed by the permit. The legislation provides trucks that have idle reduction technology an exemption from any penalty incurred due to the weight caused by the technology.
Effective Date: July 1, 2010

HB 1195 Create the Georgia Workforce Investment Board/Georgia Work Ready in Statute (Rep. Terry England, 108th)

To ensure Georgia Work Ready continues after 2010, HB 1195 creates the Georgia Workforce Investment Board in statute. The board is tasked with assisting the Governor in the development of an annual state workforce development strategic plan to be implemented through Georgia Work Ready. Other duties include establishing performance standards and benchmarks, providing guidance on the strategic plans of local workforce investment boards, establishing local workforce investment areas, establishing one-stop development centers, developing allocation formulas for distribution of funds to local areas and preparing an annual report for the U.S. Secretary of Labor.
Effective Date: May 20, 2010

HB 1393 Extend Motor Fuel Tax Exemption for Transit (Rep. Roberta Abdul Salaam, 74th)

HB 1393 extends for two years the motor fuel tax exemption that county transit systems currently enjoy.
Effective Date: June 3, 2010

SB 17 Ethics Reform Legislation(Sen. Seth Harp, 29th)

This legislation provides for numerous changes to the state ethics laws. Changes include requiring county officials to electronically file campaign contribution reports and personal financial disclosure reports with the State Ethics Commission. For a detailed summary, click [here](#).

Effective Date: January 10, 2011

SB 305 Increase Use of Design-Build and Create Intermodal Division at GDOT(Sen. Jeff Mullis, 53rd)

This legislation doubles the amount of projects that the Department of Transportation can let under the design-build delivery method to 30 percent of the total amount of construction projects awarded in the previous fiscal year through July 1, 2014. After that, it reverts to 15 percent. The legislation was amended to also create an intermodal division at GDOT.

Effective Date: July 1, 2010

SB 354 Allow Abandonment of County Roads if in Best Public Interest(Sen. David Shafer, 48th)

Under current law, county roads can only be abandoned by the Board of Commissioners when no substantial public purpose is served by the road. However, this legislation would also allow commissioners to abandon a road when they determine that it is in the public's best interest to do so.

Effective Date: May 24, 2010

SB 456 Allow County Officials to Serve on DDA Boards(Sen. Jeff Mullis, 53rd)

This legislation removes the restriction prohibiting county and city officials from serving on the Board of Directors of Downtown Development Authorities that are designated as urban redevelopment agencies.

Effective Date: July 1, 2010

SB 458 Require Seatbelt Use in Trucks(Sen. Don Thomas, 54th)

This legislation requires people in pick-up trucks, sport utility vehicles and vans to wear a seatbelt unless they are using the vehicle for farming operations.

Effective Date: June 3, 2010

SB 520 GDOT Board Recall and Transportation Funding Legislation Clean Up(Sen. Jeff Mullis, 53rd)

This legislation allows Department of Transportation Board Members to be recalled by the legislative caucus that appointed them. It also contains "clean up" amendments to HB 277 (transportation funding).

Among these are provisions to ensure consolidated governments are treated equitably on the new regional roundtables and the clarifies certain definitions.

Effective Date: June 3, 2010

SR 821 Allow GDOT to Let Multi-Year Projects(Sen. David Shafer, 48th)

This constitutional amendment gives the Department of Transportation an exception to the constitutional requirement that state agencies have "cash-in-hand" prior to letting contracts. The department could enter into multi-year construction agreements and rely on future anticipated funds to pay for future phases of projects.

Effective Date: Upon approval by the voters in November

GENERAL COUNTY GOVERNMENT**[Staff: Todd Edwards]****HB 122 Locals to Report Annual Audits and Budgets**(Rep. Edward Lindsey, 54th)

This legislation requires local governments to send, via electronic PDF file, their annual budgets and audits to the Carl Vinson Institute of Government to be posted on a centralized website. Counties will have up to 30 days to submit their budget once it is adopted.

Effective Date: January 1, 2011

HB 169 Georgia GIS Advisory Council(Rep. Earl Carter, 159th)

This legislation requires the Department of Natural Resources to establish the Georgia Geospatial Advisory Council to audit Georgia's GIS capabilities at the county, regional and state level. The Council shall make recommendations to the General Assembly on how to move forward in achieving governmental GIS interoperability for the benefit of Georgia citizens in the

areas of floodplain management and notification, service delivery, transportation, public safety and economic development, among others.

Effective Date: July 1, 2010

HB 516 Can't Restrict Industrialized Homes

(Rep. Jay Roberts, 154th)

This legislation prohibits counties and cities from treating industrialized buildings any differently from buildings constructed on site so long as the former is designed and constructed in compliance with the state minimum standards codes. All zoning, land-use, setback, subdivision regulation, and architectural and esthetic requirements are reserved to the local government; however, no ordinances can apply strictly to industrialized homes that don't apply to stick-built homes.

Effective Date: May 20, 2010

HB 867 Create the Commission on Regional Planning in Statute

(Rep. Ron Stephens, 164th)

This legislation codifies the Commission on Regional Planning created through an Executive Order in 2009. The Commission is responsible for managing the relationship between the state and regional commissions. It will coordinate state contract terms, identify appropriate funding, coordinate planning of state and federal resources and identify issues and opportunities requiring state, regional or local action. The composition of the board is included in the legislation.

Effective Date: July 1, 2010

HB 1007 Sale of Personal Property to Employing Political Subdivision

(Rep. Doug Holt, 112th)

This legislation increases the value of personal property that an employee, appointed officer or elected officer of a political subdivision may sell to his/her employing political subdivision from \$200 to \$800.

Effective Date: July 1, 2010

HB 1106 Animal Shelters Must Scan for Microchips

(Rep. Gene Maddox, 172nd)

This legislation requires an animal shelter to scan animals for a microchip and, if one is found, make a reasonable effort to contact the owner before euthanasia. Shelters and their employers shall not be liable for failing to detect a microchip or contacting the owner, and they are not required to scan vicious or dangerous animals.

Effective Date: July 1, 2010

HB 1196 Prohibit Counties from Requiring Fire Sprinklers in Homes

(Rep. Terry England, 108th)

This legislation prohibits both state and local governments from adopting building codes requiring fire sprinklers to be installed in single family dwellings or duplexes.

Effective Date: May 24, 2010

SB 339 Allow Utility Contractors to Bid on Projects without General Contractor License

(Sen. Mitch Seabaugh, 28th)

This legislation makes it unlawful for a county to refuse to allow a properly-licensed utility contractor to bid on a utility project simply because the utility contractor does not also have a general contractor license.

Effective Date: July 1, 2010

SB 384 No Mobile Home Age Restrictions

(Sen. John Bulloch, 11th)

Under this legislation local governments cannot prohibit manufactured homes from coming into their communities (or being moved within) based solely on their age. However, counties and cities are allowed to set health and safety regulations and mobile homes will have to abide by all local zoning and land use ordinances.

Effective Date: September 1, 2010

SB 432 Advanced Broadband Collocation Act

(Sen. Lee Hawkins, 49th)

In order to encourage collocations over building new cell towers, SB 432 provides a streamlined collocation process whereby wireless providers are able to make modifications to their equipment on existing towers, or collocate equipment on existing towers, without going through an entire rezoning or additional special land use permit. The streamlined process would be available so long as the collocation does not increase the height or width of the tower, does not increase the footprint of the accessory equipment, and does not exceed applicable weight limits of the tower. Wireless companies still have to comply with any applicable site plan and building permit requirements set on the existing tower and would have to comply with zoning and land use requirements generally, including any conditions placed on the use when initially approved -- and any subsequently-adopted amendments to such conditions of approval. Lastly, mirroring a recent FCC requirement, counties are now subject to a 90-day shot clock during which time they have to act on a collocation or modification permit application. The county has the first 30 days to determine whether the application is complete. If it is not, the 90-day shot clock stops until all enumerated documentation is submitted to the county.

Effective Date: May 24, 2010

**SB 447 Preference to In-State Contractors and Builders
When it does not Impair Quality and Cost**(Sen. John Bullock, 11th)

This legislation requires anyone who contracts with the county for the physical performance of services to supply the county with the identity of any and all subcontractors along with their sworn E-Verify affidavits. Contractors and subcontractors who knowingly provide false information are prohibited from bidding on or entering into any public contract for 12 months following the conviction. Counties must keep

these affidavits for five years from the point of receipt. It further requires the Department of Labor to provide at least 100 audits per year on public employers and contractors to ensure compliance with the E-Verify requirements, subject to available funding. ACCG supported this legislation.

Effective Date: July 1, 2010

HEALTH AND HUMAN SERVICES**[Staff: Debra Nesbit]****HB 866 Physicians for Rural Areas Assistance Act**(Rep. Stephen Allison, 8th)

This bill authorizes the State Medical Education Board to offer grants to enhance recruitment efforts to bring physicians to underserved rural areas. It also authorizes grants to hospital or other health care facilities in physician underserved rural areas of Georgia to enhance recruitment efforts in bringing physician to such areas.

Effective Date: July 1, 2010

SR 277 Georgia Trauma Trust Fund; impose a charge on certain motor vehicle registrations; transferred to state treasury for purpose of funding(Rep. Greg Goggans, 7th)

This bill proposes a constitutional amendment creating a dedicated funding source for trauma care through a \$10 fee on passenger motor vehicles. It is anticipated this fee will generate approximately 80 million in funding annually.

Effective Date: Upon approval by the voters in November

NATURAL RESOURCES & ENVIRONMENT**[Staff: Todd Edwards]****HB 244 Selling Off GEFA's Assets**(Rep. Jimmy Pruett, 144th)

This legislation changes the name of the Georgia Environmental Facilities Authority to the Georgia Environmental Finance Authority (GEFA). It also authorizes GEFA to transfer any and all monies it deems appropriate to the state's general fund in order to help balance the state's budget. This action means that whatever amount of GEFA's loan portfolio is sold to investment bankers will be unavailable for future low-interest water, sewer and solid waste loans to local governments.

Effective Date: July 1, 2010

withdrawal, treatment, distribution or other potable water facilities associated with that reservoir) intended to furnish water to wholesale users in "incorporated areas" of one or more counties into their service delivery strategy agreement. However, within one year of the reservoir becoming operational, local governments and authorities in the affected county or counties must update their service delivery strategy to be consistent with water supply arrangements resulting from the operation of such reservoir.

Effective Date: June 4, 2010

HB 1059 Landfills - Major to Minor Permit Modification for Recyclables(Rep. Randy Nix, 69th)

This legislation allows Municipal Solid Waste (MSW) landfills that are adding a materials processing operation for concrete, asphalt, cardboard, yard trimmings or similar wood waste (diverted from the

HB 406 Reservoirs - Service Delivery Changes(Rep. Mike Coan, 101st)

This legislation provides that counties and cities will not lose their state funding for failure to immediately include new local drinking water reservoirs (or water

waste stream) to go through a minor permit modification as opposed to major permit modification.
Effective Date: July 1, 2010

HB 1388 Allow Development Authorities to Finance Water and Energy Conservation Projects
(Rep. Timothy Bearden, 68th)

This legislation allows development authorities to provide financing to property owners for water conservation, energy efficiency, and renewable energy projects on private property. The legislation is permissive and does not require development authorities to offer this service.

Effective Date: July 1, 2010

SB 194 Local Energy Savings Performance Contracts
(Sen. Ronnie Chance, 16th)

In addition to clarifying current law authorizing state agencies to enter into benefits-based funding contracts, the legislation authorizes state and local government agencies to enter into "guaranteed energy savings performance contracts" with qualified energy service providers. A list of qualified providers will be prepared by the Georgia Environmental Finance Authority. The purpose of the performance contracts is to evaluate, recommend and implement energy conservation measures including the design and installation of equipment, operation and maintenance of any of the measures and guaranteed annual savings that meet or exceed the total annual contract payments made by a county governmental agency, including financing charges over the life of the contract. Savings generated due to an energy savings performance contract would be evaluated over a 20-year period. Financing the cost of projects related to the contract may be via installment or lease-purchase agreements for periods up to 20 years. Authorization for local and state agencies to enter energy savings performance contracts pursuant to this legislation is subject to ratification of a proposed constitutional amendment at the 2010 general election.

Effective Date: January 1, 2011, if the constitutional amendment is approved by voters in November.

SB 370 Comprehensive Water Package
(Sen. Ross Tolleson, 20th)

All state agencies addressing Georgia's water issues have until August 1, 2010 to examine their programs, policies and rules and submit a report identifying opportunities to provide incentives for voluntary water conservation measures (for local water systems) and to enhance the state's water supply. Public water systems serving at least 3,300 individuals will have to conduct standardized annual water loss audits (by January 1, 2012 for systems serving at least 10,000 individuals and by January 1, 2013 for all the rest). Rules for conducting and reporting these audits will be promulgated by the

Department of Natural Resources. Additionally, all new multi-tenant residential, commercial and industrial buildings permitted after July 1, 2012 must have sub-metering installed and new construction must have toilets not to exceed 1.28 gallons per flush, showers that average less than 2.5 gallons of water per minute, lavatory faucets of no more than 1.5 gallons per minute and kitchen faucets not to exceed 2 gallons per minute. Local governments, responsible for enforcement, could grant certain, limited exemptions to these low-flow requirements. Lastly, a Joint Committee on Water Supply, composed of 12 members to be selected by the Lt. Governor, Speaker and Governor, is established to conduct a comprehensive analysis of the state's strategic needs for additional water supply, including the identification of creative financing options.

Effective Date: June 1, 2010

SB 380 GEFA Loans to Expand Existing Reservoirs; Metro District Interconnectivity

(Sen. Chip Pearson, 51st)

This legislation allows for loans and grants to counties and cities to pay for the cost of expanding or increasing the capacity of an already-permitted reservoir. It also requires GEFA to put out an RFP (by Sept. 1, 2010) for a detailed engineering study (to be completed by July 31, 2011) to identify a plan to interconnect all water systems within the Metro Atlanta Water Planning District to meet emergency water supply needs. The plan will set an interconnection reliability target based on 2035 water demand forecasts; evaluate factors affecting water system reliability; consider various emergency situations; include an inventory of distribution system components; and also look at steps to be taken to interconnect, chemical compatibility, and implementation costs, among other factors.

Effective Date: May 20, 2010

SB 390 County and City Conservation Easements

(Sen. Earl Buddy Carter, 1st)

Under this legislation, cities and counties are allowed to sell or grant to any holder a conservation easement over any of their real property, including but not limited to any real property set aside for use as a park.

Effective Date: June 4, 2010

PUBLIC SAFETY & THE COURTS

[Staff: Debra Nesbit]

HB 23 Prohibit Cell Phone Use and Texting by Drivers Age 18 or Under

(Rep. Matt Ramsey, 72nd)

This legislation prohibits anyone age 18 or under from using any form of cellular communication device while driving. Violations will result in up to a \$150 fine and one point against the driver's license or permit.

Effective Date: June 4, 2010

HB 329 Maximum Period of Revocation in Certain Cases

(Rep. Rich Golick 34th)

Provides that a crime committed in another state that is a felony in Georgia and is a misdemeanor in the state the crime was committed, will be treated as a felony in Georgia for probation revocations. This legislation is in response to the Silver Comet Trail murder. The murderer was convicted of a crime in Tennessee that would have been a felony if convicted in Georgia.

Effective Date: July 1, 2010

HB 567 Crime Victims' Legislation of Rights

(Rep. Don Parsons, 42nd)

This legislation expands provisions relative to victims' participation in the court system in juvenile and state courts, changes provisions relating to victim impact statements in delinquency proceedings, changes provisions relating to the return of property, requires courts to hear victim impact testimony, provides for sanction if judges fail to hear testimony from victims, requires the courts to make a finding regarding the restitution in sentencing every accused person, expands the "Crime Victims Legislation of Rights" and changes provisions relating to the prosecuting attorney's duties relative to victim notification. This legislation also provides that the Department of Corrections shall reimburse the county for inmates held at the county facility while their case is under appeal.

Effective Date: July 1, 2010

HB 571 Sexual Offenders Classification

(Rep. David Ralston 7th)

This legislation updates and changes provisions of the law relating to the classification of sexual offenders. It also legislation changes procedures for sentencing in criminal cases, with respect to sexual offenses committed after a certain date in this state.

Classification shall be set by the sentencing court rather than the Sexual Offender Registration Review Board.

This legislation provides for gender neutrality with regard to the offense of incest involving sexual intercourse or sodomy. It allows for male to male and female to female intercourse or sodomy to be considered incest. It also clarifies the circumstances that qualify as

sexual assault against persons in custody and persons subject to the authority of a supervisor or disciplinary person and establishes that consent of the victim shall not be a defense to a prosecution. A person convicted of sexual assault shall be punished by imprisonment between 1 and 25 years and/or a fine. If a person commits sexual assault against a child under the age of 16, then he/she shall receive a prison sentence between 25 and 50 years. If at the time of the offense the victim of the offense is at least 14 years old but less than 16 years old and the actor is 18 years old or younger, but no more than four years older than the victim, the person shall be guilty of a misdemeanor.

Effective Date: May 20, 2010

HB 889 Recognizance Bonds and Procedure for Public Defender Conflict of Interest Cases

(Rep. Len Walker, 107th)

This includes a procedure for the appointment of attorneys for indigent defendants in the event of the public defender having a conflict of interest. It gives the Public Defender's Standards Council the authority to establish a procedure and that the procedure shall be adhered to by the local circuit public defender offices.

Effective Date: July 1, 2010

HB 898 Publication of DUI Conviction

(Rep. Doug Collins, 27th)

Under current law, when someone is convicted of a second DUI, the clerk of court must publish a notice of the conviction with the convicted person's name, address, photo and other information. Pursuant to this legislation, the clerk could no longer publish the convicted person's address.

Effective Date: July 1, 2010

HB 981 Elimination of Sunset on State Patrol Retaining Fine Revenue

(Rep. Jill Chambers, 81st)

It eliminates the sunset date on the provision that allows the State Patrol to retain the fine revenue on tickets they issue inside I-285 in the metro area. These funds are specifically designated to fund the State Patrol Motorcycle Division. It also allows for governmental agencies to purchase retread tires for vehicles where feasible.

Effective Date: July 1, 2010

HB 1002 Increase Punishment for Crimes Against Judges and Court Personnel

(Rep. Wendell Willard, 49th)

This legislation increases the punishment for certain crimes committed upon judges, prosecuting attorneys, public defenders, clerks and deputy clerks of court,

court reporters, interpreters, and probation officers. It further changes provisions relating to aggravated assaults, intimidation or injury of grand or petit jurors or court officers, and terroristic threats and acts, among other items.

Effective Date: July 1, 2010

HB 1015 Street Gang Terrorism and Prevention Act
(Rep. Rich Gollick, 34th)

This legislation expands the street gang terrorism and prevention criminal procedure and changes provisions relating to what constitutes criminal gang activity. It further authorizes the GBI to establish a statewide criminal street gang database. It requires that criminal gang offenses be granted bail by a superior court judge and requires persons convicted of violating the street gang act be supervised on probation for an extended period of time.

Effective Date: July 1, 2010

HB 1055 Omnibus Bill Raising Various State Fees and Creating Filing Fee Add On

(Rep. Kevin Levitas, 82nd)

This legislation provides for an increase in fees charged by state agencies and by counties for the provision of some state services. It creates an additional \$125 fee to be assessed on superior and state court filings. The \$125 fee from superior court filings will be remitted to the state general fund. The \$125 fee from the state court filings will be split between the state general fund (\$75) and the county general fund (\$50). It also provides for increases in filing fees for probate and magistrate court and increases in fees charged by the superior court clerks and sheriffs. To view fee increases, [click here](#). In recent weeks, the Supreme Court of Georgia issued an order amending their rules to provide an alternative for preparing the record on cases appealed to the Supreme Court. The legal community was of the opinion that the increase on the per page charge for preparing the record from \$1.50 per page to \$10 per page would limit access to the courts. [Click here](#) to see the press release from the Supreme Court, [click here](#) to see the Supreme Court order amending the rules. Section 1-33 of the H.B. 1055 also provides for a change in the cost assessed by the Georgia Forestry Commission (GFC) for forest fire protection. It states that GFC can increase the cost per acre from 4 cents to an amount reasonably related to the actual cost of providing the service. GFC has notified the State that the charge will be 10 cents per acre. This legislation also provides for a bed tax to be charged to hospitals to offset the budget shortfall in Medicaid.

Effective Date: May 13, 2010

HB 1095 Death Investigations; Coroners Cooperate with Forensic Laboratory; Provisions

(Rep. Jill Chambers, 81st)

This legislation requires the coroners to maintain permanent copies of their reports, rather than sending it to the Division of Forensic Services of the GBI as currently required.

Effective Date: July 1, 2010

HB 1104 Juvenile Proceedings; Graduated Sanctions; Smash and Grab Act

(Rep. Jimmy Pruett 144th)

This legislation provides for graduated sanctions and secure detention for juveniles. It further provides for an administrative procedure for hearing alleged violations of probation and changes to dispositions for delinquent children.

Effective Date: July 1, 2010

HB 1174 Use of Speed Detection Devices

(Rep. Jon Burns, 157th)

Currently, law enforcement may not use radar to enforce speed limits unless the speed limit is posted for at least 30 days. This Department of Transportation legislation would remove that requirement and allow law enforcement to use radar as evidence on state roads with variable speed limits.

Effective Date: July 1, 2010

HB 1338 Disability Parking Laws

(Rep. Joe Wilkinson, 52nd)

This legislation removes the requirement that citizens appointed to enforce disability parking licenses have a disability.

Effective Date: July 1, 2010

SB 136 U.S. Immigration and Customs Enforcement

(Sen. John Douglas 17th)

This legislation would require the Department of Corrections and the State Board of Pardons and Paroles to participate in the United States Immigration and Customs Enforcement Rapid Removal of Eligible Parolees Accepted for Transfer (REPAT) program or other federal deportation program. It also requires that state agencies fully cooperate with local government for implementation of the program.

Effective Date: July 1, 2010

SB 138 Transparency in Lawsuits Protection Act; (Sen. John Wiles, 37th)

This legislation precludes any private party from filing a lawsuit based upon a state law (or amendment to state law) enacted after the effective date of the legislation unless specifically authorized by law.

Effective Date: July 1, 2010

SB 308 Gun Carry Legislation

(Sen. Mitch Seabaugh, 28th)

This comprehensive gun carry legislation re-writes the law regarding deadly weapons by defining what are public gatherings (where those having gun permits are still prohibited from carrying), bars (unless the owner allows it), courthouses, government buildings, jails or prisons, K-12 schools, universities and technical schools, places of worship, mental health facilities, nuclear power plants, and within 150 feet of a polling station.

A government building is defined as the offices in which a government entity is housed; the location where that entity meets in its official capacity (whether publicly or privately owned); and the portion of any building that is not a publicly owned building but is occupied by a government entity. Government entity is defined as an office agency, authority, department, commission, board, body, division, instrumentality, or institution of the state, county or city. New, more tamper-proof licenses will be issued and the permit application fee will increase from \$15 to \$30.

Effective Date: June 4, 2010

SB 360 Prohibit all Drivers from Texting

(Sen. Jack Murphy, 27th)

This legislation provides that no person 18 years of age or older, or who has a Class C license, shall operate a motor vehicle on any public road or highway of this state while using a wireless telecommunications device to write, send, or read any text based communication, including but not limited to a text message, instant message, e-mail, or internet data.

Effective Date: July 1, 2010

SB 371 Georgia Bureau of Investigation; Investigate Real Estate Fraud

(Sen. Legislation Cowsert, 46th)

This legislation allows the GBI to investigate crimes involving residential mortgage fraud. However, it retains local law enforcement's authority to investigate said crimes.

Effective Date: July 1, 2010

SB 491 Civil Practice; Personal Jurisdiction Over Nonresidents Involved in Domestic Relations Cases

(Sen. Legislation Cowsert, 46th)

This legislation provides for a statewide certification and registry of process servers in civil matters. It sets forth qualifications and requirements for certification and provides for an \$80 registration fee to be paid to the sheriff of the county, \$50 of which goes to the county general fund and \$30 is remitted to the Sheriff's Association for maintenance of the Statewide Registry.

Effective Date: July 1, 2010

REVENUE & FINANCE

[Staff: Clint Mueller]

HB 984 No Local Income Tax

(Rep. Larry O'Neal, 146th)

Eliminates the statute authorizing local income tax, which has never been used.

Effective Date: May 20, 2010

HB 991 Resolving LOST Disputes

(Rep. Wendell Willard, 49th)

This legislation establishes a binding arbitration dispute resolution process for counties and cities that cannot reach agreement on a Local Option Sales Tax Distribution Certificate. Instead of the tax terminating upon a failure of the county and its cities to reach an agreement, the new distribution certificate will be decided by an arbitrator choosing one of the proposals submitted by the county or the cities. To hold a referendum to terminate the tax will now require authorization of the county and the cities making up at least 50 percent of the municipal population.

Effective Date: June 4, 2010

HB 1055 Omnibus Legislation Raising Various State Fees and Creating Filing Fee Add On

(Rep. Kevin Levitas, 82nd)

This legislation was amended by the Senate to include a five-year phase out of the State's .25 mil property tax.

Effective Date: May 12, 2010

HB 1093 Occupation Taxes; County to Provide Electronic Information to Department of Revenue

(Rep. David Knight, 126th)

This legislation authorizes counties collecting business occupation taxes to ask for the business sales tax identification number if the business is required to have one. The county would send this information electronically to the Department of Revenue to verify that the business is paying state and local sales taxes.

Effective Date: June 2, 2010

HB 1105 Exempting Watercraft Held in Inventory from Taxation

(Rep. Mickey Channell, 116th)

This legislation provides that watercraft in a dealer's inventory are not required to be returned for ad valorem taxation from January 1, 2011 until December 31, 2013.

Effective Date January 1, 2010

HB 1191 Recording Tax; Property in More Than One County

(Rep. Larry O'Neal, 146th)

Under current law, when a document is filed in the superior court clerk's office placing a lien on a piece of property that it is in more than one county, the intangible tax is paid to the county where the lien is first filed. HB 1191 requires that the intangible tax be prorated among the counties in which the property lies.

Effective Date: July 1, 2010

HB 1192 Real Estate Transfer Tax; Property in More Than One County

(Rep. Larry O'Neal, 146th)

Under current law, when a piece of property located in more than one county is sold, the real estate transfer tax is paid to the county where the deed is first filed. HB 1192 requires that the tax be prorated between the counties.

Effective Date: July 1, 2010

HB 1221 Streamlined Sales Tax

(Rep. Larry O'Neal, 146th)

This legislation places Georgia in conformance with the National Streamlined Sales Tax requirements. Counties immediately benefit from additional local sales tax that will be voluntarily collected from out-of-state vendors. Once Congress passes streamlined legislation, Georgia will be prepared to take advantage of mandatory collections from out-of-state vendors.

Effective Date: January 1, 2010

HB 1258 Economic Recovery Zone Bonds(Rep. James Mills, 25th)

This legislation authorizes the Georgia State Finance and Investment Commission (GSFIC) to recapture any Economic Recovery Zone Bonds not used by the counties.

Effective Date: May 20, 2010

HB 1284 Summary of State User Fees(Rep. Richard Smith, 131st)

This legislation requires the state to prepare an annual report showing all user fees, the statute or regulation authorizing the fee, the estimated cost of the goods or services, the amount collected from the user fee and whether the fee is retained by the department or remitted to the general fund. The Office of Planning and Budget will publish the compilation of reports on the Open Georgia Web Site. This legislation does not apply to local government user fees.

Effective Date: May 20, 2010

HB 1405 2010 Special Council on Tax Reform and Fairness for Georgians; Special Joint Committee on Georgia Revenue Structure(Rep. Larry O'Neal, 146th)

This legislation creates the 2010 Special Council on Tax Reform and Fairness for Georgia and the Special Joint Committee on Georgia Revenue Structure to perform a systematic study of the state revenue structure and to recommend tax structure changes.

Effective Date: June 11, 2010

HR 1435 House Study Committee on Hotel-Motel Tax(Rep. Ron Stephens, 164th)

This resolution creates a House Study Committee on the Hotel-Motel Tax to study best practices of other states' hotel-motel tax provisions; the comparative history of the taxes; the expenditures of hotel-motel taxes to promote tourism, conventions and trade shows; the information compiled by the Department of Community Affairs; the use of hotel-motel tax funds by local convention and visitors bureaus; and an assessment of stakeholders.

Effective Date: Upon appointment of the committee

SB 206 Require Annual Review of State Tax Exemptions(Sen. Greg Goggans, 7th)

This legislation requires the state to conduct an annual tax expenditure report. This report requires an analysis of each state tax exemption, deduction, credit or preferential tax rate and the amount of government revenues that have been lost, including any state expenditures to local governments for local assistance grants authorized by the Constitution. The report also requires a statement of the intended objective of the tax

expenditure, an analysis of whether the tax expenditure is achieving that objective, the change in the distribution of tax burden, and the impact on the administration of the tax system.

Effective Date: May 20, 2010

SB 346 Ad Valorem Taxes; comprehensive revisions(Sen. Chip Rogers, 21st)

Major provisions as a result of the passage of SB 346 include. For detail presentation [click here](#):

- Requires annual assessment notices sent to all properties
- Authorizes the creation of regional boards of equalization
- Requires an estimate of the tax liability on the assessment notice
- Requires the Department of Revenue (DOR) to create a uniform appeal form
- Requires members of the Boards of Equalization (BOE) to take a written oath of duty
- Provides the Superior Court Clerk responsibility for oversight and administration of the BOE
- Grants appeal rights to a new property owner who makes a purchase before assessment notices are sent
- Requires DOR to update their training for tax officials and make it available online
- Authorizes non-homestead properties exceeding \$1 million in value to have their appeal heard by a licensed appraiser instead of the BOE
- Eliminates the non-binding arbitration appeal
- Defines "arm's length, bona fide sale"
- Requires the sale price to be used as the fair market value in the year following the sale
- Exempts counties from the 1/4 mill recovery and \$5 parcel penalties during the assessment increase moratorium
- Includes the property tax paid to other governments when making refunds
- Authorizes installment legislation
- Clarifies that only the maintenance and operations millage rate is used for purposes of calculating the rollback rate under the Taxpayer Legislation of Rights
- Eliminates the 3% and 5% threshold for appeals to get the county digest approved
- Authorizes a temporary legislation on utilities at 85% of last year's value if DOR is late submitting the utility digest
- Authorizes the Board of Tax Assessors (BOA) to correct factual errors in the tax digest within 3 years

Effective Date: January 1, 2011

SB 369 Investment Options for Local Government Bond Funds

(Legislation Hamrick, 30th)

This legislation authorizes new investment options for local governments that have issued bonds with one of

the three highest rating categories available and have a nationally recognized market.

Effective Date: July 1, 2010

Vetoed Legislation

This section of the Legislative Update provides the information released on legislation vetoed by Governor Sonny Perdue.

ECONOMIC DEVELOPMENT & TRANSPORTATION

- **HB 1023 Jobs, Opportunity, and Business Success Act of 2010; enact**
Contains various changes to tax policy, many of which may have merit but also have substantial impact on future state revenues. HB 1405, which I have signed, creates a Tax Reform Study Committee charged with the task of reviewing all our tax policies and proposing sweeping changes as needed to the General Assembly for its consideration next session. Because of the long-term fiscal implications of HB 1023, I believe the tax policy changes it contains are best considered by the Tax Reform Study Committee, rather than signing them all into law at this time. For this reason, **I VETO HB 1023.**
- **HB 1251 Give Sales Tax Refund to Tourism Operations**
Allows for significant exemptions from sales taxes for future tourism projects. In previous years, I have supported state participation in tourism projects when considered on a case-by-case basis. I have signed legislation in the past to assist tourism developments and this year I supported bond funding for the College Football Hall of Fame. However, I cannot support legislation that funds up to 25 percent of the cost of a tourism project by allowing the developers to receive refunds on state sales taxes that are collected. The tourism industry is one of Georgia's most important economic drivers, but funding developments through sales tax refunds has never been done in Georgia which sets precedent that I cannot support. As I have said repeatedly, the process used in previous years to consider projects with legislation on a case-by-case basis removes any unintended consequences of a legislation such as this, and so **I VETO HB 1251.**
- **SB 374 Create Legislative Economic Development Council**
Creates a "Legislative Economic Development Council", and grants to that council (composed of members of the General Assembly) certain powers Executive in nature over the State's economic development activities. This violates the constitutionally required separation of powers. "[A] member of the General Assembly cannot discharge the duties or exercise the functions of an agency within the executive branch of state government." 1988 Atty. Gen. Op. Ga. 31. Accordingly, **I VETO SB 374.**
- **SB 519 Limit Local Government Regulation of Golf Carts**
Changes certain rules regarding golf carts and other motorized carts. The language of a late amendment to the legislation, however, has the unintended effect of requiring every person who drives a golf cart to have a drivers' license. Although that consequence was not intended by the legislature, the language of the legislation is plain and cannot be disregarded. As our Supreme Court has recognized, plain statutory language is "the sole evidence of the ultimate legislative intent." *Hollowell v. Jove*, 247 Ga. 678, 681 (1981); see also *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 452-453 (1987) (Scalia, J., concurring) ("Where the language of [a law] is clear, we are not free to replace it with an unenacted legislative intent."). I have discussed the devastating impact this legislation would have on communities with substantial investments in golf cart paths such as Peachtree City with Rep. Matt Ramsey and Sen. Ronnie Chance. I support the original intent of the legislation and encourage legislators to revisit the issue next session without the language in question, and so **I VETO SB 519.**

GENERAL COUNTY GOVERNMENT

- **SB 415 Regulate Emergency Notification Systems**
Essentially provides liability protection for one company that does business in the area of emergency communications. Although I strongly support tort reform, I believe it is inappropriate to do it one company at a time, and so **I VETO SB 415.**

PUBLIC SAFETY & THE COURTS

- **SB 291 Gun Carry Legislation**
Changes a variety of provisions within Georgia law regarding firearms. Among others, this legislation would allow firearms to be carried into unsecure areas of airports. I have already signed SB 308, which clarifies Georgia's public gathering statute and preserves the right of private property owners. I believe this language is sufficient and adequately clarifies the law for Georgia firearms license holders. For this reason, and despite unwarranted intrusion into this state matter by ill-advised federal officials, **I VETO SB 291.**
- **HB 1236 Reduce Number of Court Reports to Distribute; Require Municipal Court Judges to be an Attorney**
Requires all municipal court judges to be members of the State Bar of Georgia. Because I believe cities should be able to decide what qualifications their municipal judges should have, **I VETO HB 1236.**
- **HB 1321 Emergency Telephone System Fund; Provide for Additional Use of Moneys**
Expands the permissible purposes for which 911 taxes currently imposed on phone legislations may be used. The legislation violates the original intent of those funds, which was to provide counties with a mechanism to support emergency 911 services – not for counties to use for other needs such as operable and interoperable radio equipment. Accordingly, **I VETO HB 1321.**
- **SB 373 Peace Officers; Investigation of an Applicant's Good Moral Character; Applying for Appointment or Certification**
Mandates that private employers turn over employment history records to law enforcement agencies when law enforcement agencies are conducting background investigations on applications and officers eligible for certification and recertification. The state should not be mandating a private business to turn over records to a law enforcement agency or any public agency absent the due process provided through existing judicial and quasi-judicial processes. Moreover, the language limiting liability for private companies complying with the law is insufficient; it immunizes private businesses for liability only when they provide "complete and accurate" information. Because the question of whether the information provided was complete and accurate will likely be a primary ground of litigation, this is an exception that will swallow the rule. For these reasons, **I VETO SB 373.**

REVENUE & FINANCE

- **HB 1028 Ad Valorem Tax; Forest Land Conservation Use Property; Revise Provisions**
Allows landowners that have placed their land in a conservation covenant to subdivide that land in a manner allowing them to avoid paying tax penalties. In 2008, I signed the Forest Land Protection Act, which provides a way for forest land owners to continue their ownership of these valuable resources by reducing the burden of property taxes on their forest land. The State and local governments have invested millions of dollars in this program, the purpose of which was to help owners maintain their land for conservation purposes. Property owners who make an agreement with the State to conserve their forest for the term of the conservation covenant – and accept a financial benefit in return – are and should be responsible for any breach of that agreement. HB 1028 would allow owners who sell land they have agreed to keep as forest land to avoid penalties if the conservation covenant is broken. This does not promote the original intent of the Forest Land Protection Act to help owners conserve their forests, and so **I VETO HB 1028.**

- **HB 1082 Creation of Multi-Tiered Freeport Tax Exemption**

Creates a new kind of freeport exemption available to local governments. Currently, local governments are able to enact a freeport exemption that exempts warehouses, distributors, manufacturers, and the like from inventory taxes. HB 1082 creates a second kind of exemption that would apply to retailers. Because this expansion of the exemption would merely create competition between counties at the expense of the property tax base of each county, **I VETO HB 1082.**

Appropriations

Judicial Council

- Reduce operating expenses. (*Conference Committee: Replace funds for training for local courts with increased court proceeds resulting from HB 1055, 2010 Session*) - (\$486,347)

Juvenile Courts

- Reduce alternative sentencing grants to counties - (\$59,300)

Prosecuting Attorneys

- Reduce personal services and operating expenses to reflect the revised revenue estimate - (\$885,000)
- Reduce funding for conference reimbursements - (\$266,871)
- Eliminate funding for three regional offices - (\$696,257)

Council of Superior Court Clerks

- Reduce funds for the Judicial Data Exchange project - (\$500,000)

Superior Court Judges

- Reduce funds for judges' continuing judicial education - (\$200,000)
- Restore funds for the use of senior judges reduced in FY 2009 and FY 2010 - \$512,000
- Eliminate five vacant law clerk positions to reflect the revised revenue estimate - (\$267,685)

Community Affairs, Department of

- Increase funds for Regional Economic Business Assistance grants - \$3,500,000
- Eliminate all funds for One Georgia Authority. The authority will exhaust all of its reserves by the end of FY11. Without new appropriations, the authority will no longer have funds to operate next year. - (\$47,123,133)
- Replace state funds with other funds for water sewer grants - (\$119,317)
- Replace state funds with other funds for operations of the Georgia Environmental Facilities Authority - (\$395,726)
- Eliminate funds for the Georgia Rural Water Association - (\$35,392)

- Reduce funds for Planning and Air Quality programs - (\$645,473)

Public Health Formula Grants to Counties

- Reduce funds to reflect the revised revenue estimate - (\$821,846)

Corrections, Department of

- Transfer funding from the Health program to address the county jail backlog. - \$2,000,000 for a total of \$9,596,724

Economic Development, Department of

- Reduce funds for Business Recruitment and Expansion marketing - (\$400,000)
- Reduce Departmental Administration Marketing Funds - (\$444,409)

Economic Development – Tourism

- Reduce Tourism Marketing funds - (\$400,000)
- Delete one-time funds for the Veteran's Wall of Honor - (\$50,000)
- Reduce contract funds for the Historical Marker program with the Georgia Historical Society - (\$5,000)
- Reduce grants for local welcome centers - (\$192,837)
- Reduce one-time funds for the Civil War Trails - (\$40,000)
- Reduce contract funds for the Georgia Humanities Council - (\$89,050)
- Reduce contract funds for the Georgia Historical Society - (\$35,000)

Economic Development Attached Agencies

- Reduce contract funds for the Civil War Commission - (\$15,000)
- Reduce funding for the Aviation Hall of Fame - (\$17,516)
- Reduce funds for the Georgia Medical Center Authority - (\$100,000)
- Reduce funding for the Georgia Music Hall of Fame - (\$133,758)
- Reduce funding for the Georgia Sports Hall of Fame - (\$142,448)

Forestry Commission, Georgia

- Increase the Forested Acre County Assessment from \$.04 to \$.10 per acre, as included in HB 1055, to defray the cost of fire protection services - \$1,137,201

Georgia Council for the Arts

- Reduce funds for grants and benefits to non-profit arts and cultural organizations - (\$1,704,392)

Investigation, Georgia Bureau of

- Consolidate scientific services by closing the laboratories in Moultrie, Columbus, and Summerville. (*Conference Committee: Increase funds for the Columbus and Moultrie laboratories.*)- \$425,751
- Criminal Justice Coordinating Council - Eliminate the Local Law Enforcement and Fire Safety grant program - (\$100,000)

Natural Resources, Department of

- Eliminate contract funds for Clean Cities (\$10,000), the Clean Air Campaign (\$620,000) and environmental monitoring (\$100,000) - (\$730,000)
- Appropriated only \$2.9 million of the approximately \$15 million collection for the Hazardous Waste Trust fund
- Appropriated only \$660,000 of the approximately \$7 million collected for the Solid Waste Trust Fund

Public Libraries

- Reduce funding for personal services and operating expenses - (\$3,466,624)

Revenue, Department of

- Provide funding for Forestland Protection Grants, as authorized by the State Constitution, to reimburse counties for losses in tax collections from property placed in qualifying conservation use - \$10,584,551
- Add six Special Investigation Agents and four Fraud Detection Group Financial Analysts to enhance revenue collections - \$677,700
- Special Project - Tax Compliance Auditors - Provide funds to hire 95 tax compliance auditors and 40 revenue agents to work outstanding accounts receivable and to fund field work - \$9,175,000

Transportation, Department of

- Maintains \$96 million in funding for LARP and State Aid but consolidates the funds into the new Local Maintenance Improvement Grant (LMIG) program

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