

Deal issues 2018 veto statements

May 8, 2018

VETO NUMBER 1 - HB 354

House Bill 354 reconstitutes the Georgia International Maritime Trade Center Authority (GIMTCA) as a public corporation and instrumentality of the state. The Authority created by HB 354 is made up of appointments by each member of the Georgia General Assembly who represent a portion of Chatham County, the County Manager of Chatham County, the City Manager of the City of Savannah, the President of the Savannah Economic Development Authority, and the President of the Savannah Area Convention and Visitors' Bureau. HB 354 also grants the Authority broad power to issue revenue bonds without any cap on the aggregate amount, unlike other authorities which are subject to aggregate limits on the amount of bonds that may be issued. Moreover, unlike many of our other state authorities, GIMTCA has no gubernatorial appointments, nor does it have a legislative oversight committee. The Authority's lack of executive and legislative oversight and theoretically unlimited bond capacity could lead to obvious negative consequences for the entire state stemming from the absence of accountability. For the foregoing reasons, I VETO HB 354.

VETO NUMBER 2 - HB 410

House Bill 410 provides a list of information that home owners associations, property owners associations, and condominium owners associations would be required to provide to a homeowner upon request and caps the fees the association could charge for producing and transferring that information. First, the cap provided by HB 410 is, to my knowledge, lower than that of any other state in the nation with such a cap and may not be sufficient to cover costs of providing the information required, which could result in increased costs to association members. Second, such associations often contract with private parties to provide these services so that association members need not complete the tasks personally, on behalf of the association. Consequently, it appears that HB 410 could impose burdensome responsibilities on associations and their members and, regardless, absent sufficient justification, parties should generally be left alone to dicker the terms of their private agreements without government intrusion. For the foregoing reasons, I VETO HB 410.

VETO NUMBER 3 - HB 441

House Bill 441 would allow for the creation and use of self-settled spendthrift trusts—also known as self-settled asset protection trusts. Under current law in Georgia, a spendthrift provision may be included in a trust instrument which, generally, can shield the assets in the trust from certain creditors of a beneficiary. However, a spendthrift provision is inapplicable to a beneficiary who is also a settlor or contributor, to the extent of the contribution to the trust. Self-settled asset protection trusts, as proposed in HB 441, would allow a person to create, or settle, a trust naming the settlor as a beneficiary, while shielding the trust assets from certain creditors. Such trusts have been subject to controversy and scrutiny due to the potential opportunity to shirk creditors while preserving the assets of the trust for distribution to the settlor/beneficiary. In a recent trend, many states have begun permitting self-settled asset protection trusts which were previously prohibited throughout the United States, though a majority continue to prohibit such trust instruments. I commend the authors for their willingness to seek input and adjust the bill throughout the legislative process, but am concerned of possible unintended consequences presented by a complex new estate planning tool. Though I do not dismiss the potential merit of these proposed trust instruments in comprehensive estate planning, I have not yet been convinced of the need for such trusts in Georgia. As a state, we want to ensure that the creditor-debtor relationship is an equitable one that facilitates economic prosperity and mobility, and self-settled spendthrift trusts—without proper safeguards—have the potential to negatively impact this balance. For the foregoing reasons, I VETO HB 441.

VETO NUMBERS 4, 5, 6, AND 7 - HB 507, 508, 549 and 550

House Bills 507, 508, 549 and 550 provide governing authorities for the cities of Jonesboro, Morrow, Lovejoy and Lake City, respectively. The House sponsors of the legislation requested vetoes for HB 507, 508, 549 and 550 because the language of the bill mistakenly references 2017 dates instead of 2018 dates. The authors of the bills have also expressed the desire to have these bills vetoed so they may start over with new legislation next session. For this reason, I VETO HB 507, HB 508, HB 549, and HB 550.

VETO NUMBER 8 - HB 586

House Bill 586 provides for the Charter for the City of Reynolds. The language of the bill mistakenly references 2017 dates instead of 2018 dates. The General Assembly passed, and I have signed, a separate bill during the 2018 legislative session which has the corrected dates. For this reason, I VETO HB 586.

VETO NUMBER 9 - HB 600

House Bill 600 amends the Charter of the City of Stonecrest by providing term limits for the mayor of Stonecrest while expressly permitting councilmembers to remain in office for an unlimited number of terms. Additionally, the bill removes the Mayor's power to vote with the City Council, except in the case of a tie. These amendments to a city charter that has been in effect for less than two years have not, apparently, received the proper amount of discussion during the legislative session as legislators from the delegation could not reach a consensus. For this reason, I VETO HB 600.

VETO NUMBER 10 - HB 754

House Bill 754 would allow insurers domiciled in Georgia to divide into two or more insurers. Any plan of division must be submitted to and approved by the Commissioner of Insurance, giving the Commissioner broad discretion to decide on a case by case basis if the company meets the requirements to divide. If a company was deemed acceptable by the Commissioner to divide and one of the resulting insurers stopped turning a profit, issues could arise as to how to distribute the liability. I am unaware of the need for the division process provided for in HB 754 and am unconvinced that the appropriate safeguards are provided for in the proposed legislation. For the foregoing reasons, I VETO HB 754.

VETO NUMBER 11 - HB 795

House Bill 795 would subject the State Board of Worker's Compensation to many of the requirements of the Georgia Administrative Procedure Act, from which it is explicitly exempted by current law. The Board's current rulemaking and proposed legislation process relies on a consensus of stakeholders through its advisory council. This bill would permit, and to some extent encourage, the House and Senate Judiciary Committees, the House Industry and Labor Committee, and the Senate Insurance and Labor Committee to override such consensus, effectively giving the legislature significant control over worker's compensation policy. While I do not doubt the sincere intention of the author of this amendment to HB 795, this shift seems to undermine the policy objectives behind the creation of the state's Worker's Compensation system and circumvent the largely successful advisory council process. Rather than significantly altering this process through a late amendment to an otherwise innocuous bill, I encourage the legislature to focus on providing input to the Board of Worker's Compensation through current law and Board rules. Similarly, it is imperative that the Board of Worker's Compensation continue to provide notice of proposed rules to relevant legislative committees pursuant to Board rules and to encourage appropriate comment and legislative interaction. For the foregoing reasons, I VETO HB 795.

VETO NUMBER 12 - HB 870

House Bill 870 annexes the Fulton County Industrial District ("FCID") into the City of South Fulton. The FCID is the only portion of Fulton County that remains unincorporated after the creation of the City of South Fulton in 2016. The FCID cannot be annexed by any municipality due to a local

constitutional amendment to the Constitution of Georgia dating to 1979. The FCID is unique in that it consists of predominantly commercial and industrial properties, therefore only the relatively small number of residents who apparently live in the district—not the majority of property owners and users—would dictate via referendum whether to incorporate the area into the City of South Fulton. It is my belief that Fulton County citizens should first vote on repeal of the constitutional amendment before beginning discussions about annexation of this unique unincorporated, and largely non-residential, area into any city. For this reason, I VETO HB 870.

VETO NUMBER 13 - HB 912

House Bill 912 allows the Spalding County State Court to impose additional fees of up to \$50 on any court cost associated with a guilty or nolo contendere plea. The bill also authorizes a failure to appear fee which can amount to as much as \$100. I believe these additional costs are unnecessary and impose a significant burden on those appearing in the Spalding County State Court. County appropriations should be sufficient to support the expenses of this court without placing fees on individuals in addition to the substantial court costs already imposed. For this reason, I VETO HB 912.

VETO NUMBER 14 - HB 942

House Bill 942 creates the Savannah Farmers Market Commission as a political subdivision of the state and public corporation. The Commission would consist of members appointed only by the Chatham County Delegation to the General Assembly and would work with the Savannah State Farmers Market to plan and execute agricultural events and programs along with other powers and duties. While I am encouraged by the local delegation's support for agricultural programs and their support of farmers using the market, I am unconvinced of the necessity for a new political subdivision of the state to support such efforts and do not want to displace the role of local government in that endeavor. For the foregoing reasons, I VETO HB 942.

VETO NUMBER 15 - HB 995

House Bill 995 aims to provide more transparency with respect to local government contracts with private consultants. The language contained in HB 995 was largely lifted from a standard form contract that is used by the Department of Administrative Services when state entities enter into agreements with private consultants. However, because of this, the bill is not suitably tailored to the subject of HB 795: various local governments. While I commend the authors' attempt to protect the local government contracting process, I fear that copying contract language used by state-level entities to create legislation regulating local governments—without appropriate adaptations—will lead to varying interpretations among the state's local economic development authorities and, as a result, difficulty in fostering economic development. Moreover, the legislation contains language, seemingly unintentionally, that would apply only to state entities while the purpose of the bill is to regulate local government contracts. For the foregoing reasons, I VETO House Bill 995.

VETO NUMBER 16 - HB 1039

House Bill 1039 creates the Big Canoe Water and Sewer Authority as a political subdivision of the state and public corporation. The authority's purpose would be to acquire, construct, equip, maintain, and operate an adequate water supply, water treatment facilities, and distribution facilities within the authority limits. The House sponsors of HB 1039 have requested this bill be vetoed. For this reason, I VETO HB 1039.

VETO NUMBER 17 - HB 1047

House Bill 1047 permits the State Court of Washington County to collect a \$15.00 fee as a surcharge to each fine paid in the court. The money collected from the fee would be earmarked to fund various technology improvements for the Washington County Sheriff's Office and disbursed at the discretion of the Sheriff. I am not convinced that the installation of a new fee is necessary for funding technology in the Sheriff's Office; such costs of modernization and technological improvement should be borne by existing or future local government appropriations, not by those appearing in

court. For this reason, I VETO HB 1047.

VETO NUMBER 18 - SB 315

Senate Bill 315 proposes to create the crime of unauthorized computer access. The intent of this legislation is to strengthen cyber security laws to protect national security interests and to safeguard sensitive or private information of government, citizens, and consumers.

As technology continues to advance and evolve in the digital age, a robust discussion on cyber security policy that meets the needs of the public and industry stakeholders is of critical importance. Georgia's emergence as a leader in cyber technology, particularly the presence of U.S. Army Cyber Command, the state's Cyber Range, and a wide range of private tech companies and cyber research institutions, further necessitates the need for comprehensive cyber security debate, discussion, and measures.

Under the proposed legislation, it would be a crime to intentionally access a computer or computer network with knowledge that such access is without authority. However, certain components of the legislation have led to concerns regarding national security implications and other potential ramifications. Consequently, while intending to protect against online breaches and hacks, SB 315 may inadvertently hinder the ability of government and private industries to do so.

After careful review and consideration of this legislation, including feedback from other stakeholders, I have concluded more discussion is required before enacting this cyber security legislation. The work done this session by the legislation's sponsors and stakeholders provides a solid foundation for continued collaboration on this issue.

It is my hope that legislators will work with the cyber security and law enforcement communities moving forward to develop a comprehensive policy that promotes national security, protects online information, and continues to advance Georgia's position as a leader in the technology industry.

For the foregoing reasons, I VETO SB 315.

VETO NUMBER 19 - SB 338

Senate Bill 338 significantly modifies requirements for agency rule making under the Administrative Procedure Act, requiring agencies to file a notice of intent to adopt or amend a rule at least 60 days prior to the effective date of the proposed adoption, and hold a meeting on adoption at least 30 days after the issuance of the notice and at least 30 days prior to the proposed rule's effective date. Second, SB 338 gives the General Assembly more time and eases statutory requirements to override a new or amended rule; the General Assembly could take up the override of a proposed rule at any point during the legislative session and such an override would not be subject to a gubernatorial veto, moreover, in some circumstances, a bare majority of a legislative committee could hold a proposed rule in limbo until the 40th day of the next legislative session. It is my firm opinion that the current Administrative Procedure Act provides sufficient safeguards in the instances that SB 338 addresses—requiring 30 days-notice of an agency action, permitting legislative committees to object to the rule and override such rule by a simple majority subject to gubernatorial consent or by a two-thirds vote without signature of the Governor, and requiring any action taken to override a veto be completed prior to the 30th day of the legislative session. In addition to unnecessarily ceding power from the executive branch and slowing the ability of state government to respond by way of agency rulemaking, SB 338 places those who are subject to regulation of state agencies on unstable ground, possibly jeopardizing our state's business climate. For the foregoing reasons, I VETO SB 338.

VETO NUMBER 20 - SB 342

Senate Bill 342 would allow a vehicle owner to retain possession of his or her vehicle upon being cited for failing to have the required revalidation decal affixed upon the license plate if such an owner provides evidence to the court that he or she has attached the decal since being cited. Current law, however, already provides a mechanism by which an owner may retain possession of

his or her vehicle upon a violation—that is, if the owner shows to the court that the revalidation decal had been properly applied for but had not yet been received before being cited. This legislation would diminish the deterrent enforcement of revalidation decal violations and is unnecessary given the leniency exception already provided by law. For the foregoing reasons, I VETO SB 342.

VETO NUMBER 21 - SB 357

Senate Bill 357, while well-intentioned, creates several unnecessary additional levels of government. The proposed director of health care policy and strategic planning along with the Health Coordination and Innovation Council and an additional advisory board would be attached to the Governor’s Office of Planning and Budget, yet the director of OPB would have no functional control over these newly created positions and entities. In addition to the practical management and organizational issues presented by this structure, a new Governor will be elected this November and it should be left to that individual to shape their executive team in 2019. For the foregoing reasons, I VETO SB 357.

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