2016 SESSION OF THE GEORGIA GENERAL ASSEMBLY

GENERAL LEGISLATION – VETO MESSAGES

VETO NUMBER 1

HB 757 House Bill 757 was vetoed on March 28, 2016. Please refer to the veto letter and message issued on that date.

VETO NUMBER 2

HB 59 House Bill 59 creates a blanket waiver of sovereign immunity, with limited exceptions, as to claims seeking a declaratory judgment or injunctive relief against the state and local governments. This sweeping waiver of sovereign immunity would allow unprecedented judicial intervention into daily management decisions entrusted to the executive branch of government. While the concept of sovereign immunity is relatively simple on its face, it is complex in application and it is likely that HB 59 would have unforeseen ramifications that would impede government operations. While the purported purpose of HB 59 was to legislatively address a recent judicial decision, the waiver of sovereign immunity contained therein is not sufficiently limited. As I have not been persuaded of the need for this comprehensive waiver of sovereign immunity, **I VETO HB 59.**

VETO NUMBER 3

HB 216 House Bill 216 expands the eligibility for workers' compensation benefits to firefighters diagnosed with cancer, allowing such benefits for any firefighter in Georgia if a medical expert can prove by a preponderance of the evidence that the cancer was caused from exposure to any risk factor while performing work related duties. Firefighters play an integral role in keeping Georgians safe, their unselfish everyday sacrifice does not go unnoticed by this office and they will continue to have my support. However, while the authors' intent of this bill is respected, I am concerned that codifying an exception for one occupation at this relatively low standard of proof with no time limitation on diagnosis or restriction on eligible types of cancer is a broad solution for a problem not yet abundantly demonstrated in Georgia. The Association County Commissioners of Georgia have also expressed concern that the shift in this burden of proof may potentially lead to tremendous uncertainty in projecting the future financial liability for workers' compensation. Similarly, the Georgia Municipal Association is concerned that HB 216 makes no distinction between paid and volunteer firefighters. Paid employees are automatically granted workers' compensation coverage, while cities and counties must

affirmatively vote to include volunteer firefighters in their coverage. Finally, since I took office, I am unaware of any firefighter that has filed a workers' compensation claim for a cancer diagnosis. Signing this bill into law has the potential to exhaust our State Board of Workers' Compensation and our state judicial system with litigation at the expense of our cities and counties. For these reasons, **I VETO HB 216.**

VETO NUMBER 4

HB 219 House Bill 219 would allow pools located at country clubs, subdivisions, condominiums and townhome associations, which are for 75 persons or less, to opt out of state inspections and regulations. These are pools frequented by children and families who will no longer swim with the security that the pool and grounds have been inspected by a certified public health professional for compliance with health and safety standards to the same level they are currently being evaluated today. Just as Georgians enjoy the protections provided by public health inspections of restaurants where they eat, they expect an equivalent safeguard with respect to the pools where they swim. This bill would add language to the code that further complicates an already complex law, which has the possibility of resulting in increased rates of injury and disease outbreak in patrons of the affected pools. Therefore, in the interest of providing the necessary safety that Georgians deserve, **I VETO HB 219.**

VETO NUMBER 5

HB 370 House Bill 370 would waive all fines, fees, and penalties in association with the failure to file, filing late, or filing incomplete campaign contribution disclosure reports and personal financial disclosure statements by locally elected officials and candidates from January 1, 2010 – January 10, 2014. This retroactive measure amounts to amnesty for individuals who failed to follow correct procedure for the filing of these documents. Moreover, it places an undue burden on the Georgia Government Transparency and Campaign Finance Commission for the distribution of notice, promulgation of forms, and collection of new documents for those local officials or candidates to refile if they had previously failed to file, filed late, or filed incomplete documents during the 2010- 2014 timeframe. Finally, it has the potential to allow for a refund of fines, fees, and penalties that have already been paid by violators. For these reasons, **I VETO HB 370.**

VETO NUMBER 6

HB 659 House Bill 659 at its core requires greater public transparency of financial information on both the local system and individual school levels. By doing so, parents, students, teachers, and members of the community will become more knowledgeable and engaged in the strategic planning process and daily operation of our state's schools.

Because of this, I will include the fiscal transparency measures of House Bill 659 in my 2017 legislative agenda, in addition to the recommendations from the Education Reform Commission.

However, language in House Bill 659 also authorizes the Georgia Department of Education to conduct a pilot program wherein local school systems may spend and report federal, state, and local funds in a consolidated manner. I strongly believe that the majority of decisions should remain in the hands of those closest to our state's students, and I have made it a priority to promote this type of flexibility. But with increased flexibility, must come increased transparency. While I support the consolidated spending of funds, which is currently allowed by law, I cannot support legislation that would allow districts to not disclose how such funds are spent. For these reasons, **I VETO HB 659.**

VETO NUMBER 7

HB 726 House Bill 726 would have a significant impact to the taxable base for cigars, loose tobacco and smokeless tobacco. Given its impact on the upcoming budget and the limited public benefit this legislation would provide, **I VETO HB 726.**

VETO NUMBER 8

HB 779 House Bill 779 involves the use of unmanned aircraft technology or "drones" which raises a unique concern requiring careful research. I am appreciative of the author of HB 779, the House study committee, and the Georgia Technology Research Institute for their tireless work on this matter and for realizing the impact this aircraft has on the future of our state. I also understand the importance of continuing to study the use of drones and encourage our universities and technical colleges to offer classes and instruction on this new scientific technology and I encourage state agencies to utilize drone technology where it can provide cost savings and improve safety for Georgians—all while following proper FAA regulations. However, I believe that Georgia should first allow the Federal Aviation Authority (FAA) to complete their efforts in creating federal rules and regulations for the use of drones. Signing this bill prior to the release of the FAA guidelines would create a layer of state regulation that may be vitiated by future FAA action and would also grow state government by creating a wholly new quasi-legislative body to produce future rules and regulations. Such layers of potentially inconsistent rules could create a climate contrary to what the business community, the science and technology community, and legislative leaders sought to create by drafting this legislation. In addition, I would urge local governments to refrain from enacting ordinances that would regulate drone activity until the FAA has acted as well. In the interim, I plan by executive order, to establish a commission to propose state-level guidelines until the new FAA regulations are released. For these reasons, **I VETO HB 779.**

VETO NUMBER 9

HB 859 House Bill 859 seeks to amend O.C.G.A. § 16-11-127.1, which relates to the carrying of weapons within school safety zones. It would add an exception to the prohibition of carrying or possessing a weapon in such school zones, to "any licensed holder when he or she is in any building or on real property owned or leased to any public technical school, vocational school, college or university or other public institution of postsecondary education," except for "buildings or property used for athletic sporting events or student housing, including, but not limited to fraternity and sorority houses..."

Some supporters of HB 859 contend that this legislation is justified under the provisions of the Second Amendment to the United States Constitution which provides in part that "the right of the people to keep and bear arms, shall not be infringed." Identical words are contained in Article I, Section, I, Paragraph VIII of the Constitution of the State of Georgia. It would be incorrect to conclude, however, that certain restrictions on the right to keep and bear arms are unconstitutional.

In the 2008 case of District of Columbia v. Heller, United States Supreme Court Justice Antonin Scalia, writing the opinion of the Court, reviews the history of the Second Amendment and sets forth the most complete explanation of the Amendment ever embodied in a Supreme Court opinion. While the subject matter of HB 859 was not before the Court in the Heller case, the opinion clearly establishes that "Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." Justice Scalia further states that "nothing in our opinion should be taken to cast doubt on...laws forbidding the carrying of firearms in sensitive places such as schools and government buildings..."

Georgia, like most jurisdictions, has set forth statutory provisions defining what constitutes those "sensitive places" and has imposed specific rules relating to the presence of weapons in those places. Indeed, the Georgia Code section which HB 859 seeks to amend is called the "Georgia Firearms and Weapons Act."

Since the right to keep and bear arms in sensitive places such as those enumerated in HB 859 is not guaranteed by the Second Amendment nor the Georgia Constitution, the inquiry should then focus on whether or not those places deserve to continue to be shielded from weapons as they are and have been for generations in our state.

Perhaps the most enlightening evidence of the historical significance of prohibiting weapons on a college campus is found in the minutes of October 4, 1824, Board of Visitors

of the newly created University of Virginia. Present for that meeting were Thomas Jefferson and James Madison, along with four other members.

In that meeting of the Board of Visitors, detailed rules were set forth for the operation of the University which would open several months later. Under the rules relating to the conduct of students, it provided that "No student shall, within the precincts of the University, introduce, keep or use any spirituous or venomous liquors, keep or use weapons or arms of any kind..."

The approval of these specific prohibitions relating to "campus carry" by the principal author of the Declaration of Independence, and the principal author of the United States Constitution should not only dispel any vestige of Constitutional privilege but should illustrate that having college campuses free of weapons has great historical precedent.

That college campuses should be a "gun free zone" is a concept that has deep roots in Georgia as well. In the 2014 session of the Georgia General Assembly, HB 60 was passed and I signed it into law. That bill greatly expanded the areas where licensed gun owners could take their weapons. At that time, campus carry was considered but not adopted.

While there have been alarming incidents of criminal conduct on college campuses in which students have been victimized during the past two years, do those acts justify such a radical departure from the classification of colleges as "sensitive areas" where weapons are not allowed? The presumed justification is the need for students to provide their own self protection against such criminal conduct. However, since students who are under 21 years of age would be ineligible to avail themselves of such protection under the terms of HB 859, it is safe to assume that a significant portion of the student body would be unarmed.

As for the buildings and places referred to in this legislation, I will simply call "colleges." In order to carry a weapon onto a college, there is no requirement that the armed individual actually be a student, only that they possess a license to carry a weapon. Since most, if not all, of our colleges are open campuses, this bill will allow any licensed gun owner to bring a concealed weapon onto the campus and neither police nor other law enforcement personnel will be allowed to even ask the individual to produce evidence of his license.

If the intent of HB 859 is to increase safety of students on college campuses, it is highly questionable that such would be the result. However, I understand the concerns of the authors of this legislation and the parents and students who want it to become law. They apparently believe that the colleges are not providing adequate security on their campuses and that civilian police are not doing so on the sidewalks, streets and parking lots students use as they go to and come from classes.

I have today issued an Executive Order directed to the Commissioner of the Technical College System of Georgia and the Chancellor of the University System of Georgia, requesting that they submit a report to me, the Lieutenant Governor and the Speaker of the House by August 1, 2016, as to the security measures that each college within their respective systems has in place. I hereby call on the leaders of the municipalities and counties in which these colleges are located, along with their law enforcement agencies to review and improve, if necessary, their security measures in areas surrounding these colleges. Since each of these municipalities and counties receive significant revenue by virtue of the location of these colleges in their jurisdictions, I believe it is appropriate that they be afforded extra protections.

Since much of the motivation for HB 859 is the commission of crimes involving the use of firearms on college campuses, I suggest to the General Assembly that it consider making the unauthorized possession and/or use of a firearm on a college campus an act that carries an increased penalty or an enhanced sentence for the underlying crime.

From the early days of our nation and state, colleges have been treated as sanctuaries of learning where firearms have not been allowed. To depart from such time honored protections should require overwhelming justification. I do not find that such justification exists. Therefore, **I VETO HB 859.**

VETO NUMBER 10

HB 916 I support efforts to focus Medicaid provider audits on incorrect payment amounts, fraud, and abuse rather than identifying routine clerical errors. This bill, however, would modify the reimbursement policies of every department, agency, board, commission, or authority of state government. This is unnecessary and may interfere with the efficient processing of payments and sound fiscal management practices. For these reasons, **I VETO HB 916.**

VETO NUMBER 11

HB 959 House Bill 959 is a comprehensive piece of legislation that, in its original form, sought to eliminate duplicative testing requirements for dually enrolled, AP, and IB students, encourage inter-agency cooperation, and clean-up other portions of Title 20, which I support. However, during the legislative process, language was added to the bill that mirrored the language found in Senate Bill 329, which I have vetoed for the reasons stated in my message for that bill. As research has demonstrated time and again, high school students with rigorous course loads are more likely to succeed in college, and considering the rich tradition of the HOPE Scholarship as a merit-based program, **I VETO HB 959.**

VETO NUMBER 12

HB 1060 House Bill 1060 is a bill that relates to the carrying and possession of firearms and other matters pertaining to firearms in general. It was presented as a housekeeping bill to clarify certain provisions that were contained in HB 60 that passed the General Assembly in 2014 and which became law upon my signature. While I do not have serious concerns about most of the bill, I do have serious concerns about the change of policy contained in Section 4 relating to the carrying of a weapon or long gun into a place of worship.

Prior to the effective date of the provisions contained in HB 60 of 2014, carrying a weapon or long gun into a place of worship was a criminal act. HB 60 added a proviso that said it would remain a criminal act "unless the governing body or authority of the place of worship permits the carrying of weapons or long guns by license holders..."

At the time HB 60 was being considered, I made it clear that I would not approve the bill if it required every house of worship to post a sign saying that weapons were not permitted. I was assured by the supporters of HB 60 that such would not be required and that only those houses of worship that affirmatively permitted weapons by the actions of its governing body or authority would be affected. In other words, unless a house of worship posted information indicating its permission to allow weapons inside, it would retain its status as an "unauthorized location" for weapons.

Section 4 of HB 1060 breaches the compromise contained in HB 60. If it were to become law, a house of worship would no longer be considered an unauthorized location for weapons, and any license holder could carry a weapon or long gun into a place of worship without penalty unless they refused to leave "upon personal notification by such place of worship that he or she is carrying a weapon or long gun in a place of worship which does not permit the carrying of a weapon or long gun." This provision also completely reverses the process so that now it will be the places of worship that do not want weapons on their premises that must affirmatively establish such a policy, rather than the other way around.

Section 4 of HB 1060 is an encroachment on the peace and tranquility of those who attend houses of worship because they can no longer have the time-honored assurance that they are in a protected place that is free of weapons and long guns. In fact, quite the opposite would be true. Even the posting of a sign saying "No Weapons Allowed" would do no good. Therefore, only when the carrier of the weapon or long gun is personally notified that he or she is violating the policies of the place of worship will any action be taken. Surely religious leaders and their congregants would be shocked to know that weapons and long

guns can be freely and legally brought into their houses of worship and that they can do nothing about it until they personally notify the armed individual that such is not permitted by the governing body of the place of worship.

This provision calls into question basic precepts about the Rule of Law. It would negate the age old principals that "everyone is presumed to know the law" and that "ignorance of the law is no excuse." If that same approach were used in other settings, the speeding motorist could contend that he should not be guilty of speeding, although signs were posted on the roadway advising him of the limits, because no one personally notified him of those limits.

This section of HB 1060 should be especially objectionable to licensed weapon holders, since it is they who would be protected for not knowing that a place of worship did not permit weapons. It is the reputation of such licensed weapon holders as law abiding citizens who respect and adhere to the rules of society that convinced many to accept the expansive provisions of HB 60 in 2014. With this one section of HB 1060, that reputation will be severely damaged. Surely, such a respected group of citizens who go through the processes of background checks, fingerprinting and other requirements to obtain a license to carry a weapon do not want or need to be tapped on the shoulder in a place or worship and reminded that their pistol or long gun is not allowed. Those who pride themselves on being law abiding citizens do not need ignorance of the law to be an excuse for their actions.

For these reasons, **I VETO HB 1060.**

VETO NUMBER 13

SB 243 Senate Bill 243 would permit full-time attorney positions in the Office of Legislative Counsel to become a member of the Georgia Judicial Retirement System (GJRS). Attorneys in this office affected by this legislation currently have access to the Employees' Retirement System of Georgia, which serves nearly all other state employees. GJRS membership, on the other hand, is generally limited to elected or appointed judicial officials, such as Superior Court Judges, District Attorneys, State Court Judges, Solicitors-General of the State Courts and Juvenile Court Judges. Though I support the legislation's goal of improving the recruitment and retention of qualified staff, the issue is not unique to the Office of Legislative Counsel. For these reasons, **I VETO SB 243.**

VETO NUMBER 14

SB 329 Senate Bill 329 adjusts the established coursework rigor requirements of the HOPE Scholarship, and allows the State Board of the Technical College System of

Georgia to identify strategic workforce needs for the purpose of updating technical college certificate program requirements.

Since its establishment in 1993, the HOPE Scholarship program has provided Georgia's highest achieving students the means to receive a postsecondary credential, regardless of their family's financial situation. Through HOPE, the state recognizes and rewards students based on individual merit, and merit alone. Shortly after taking office, I was given the choice between reform and the bankruptcy of the HOPE program. It was clear to me then, as it is still clear to me now, the direction our revered HOPE program should take. Not only did these reforms we put in place in 2011 place our Lottery, HOPE, and Pre-K programs back on a solid financial footing, but we also were able to reaffirm our commitment to our college completion, access and achievement goals. Research has demonstrated time and again that high school students with rigorous course loads are more likely to succeed in college. The academic rigor requirements put in place, which required our Georgia high school students to take advanced math, science, Advanced Placement/International Baccalaureate/Dual Enrollment courses and foreign language courses, will be phased in with full implementation of four credits in each category in 2017.

What concerns me about Senate Bill 329, which would allow students who achieve their high school diploma by obtaining a technical college diploma or two technical college certificates to become eligible for the HOPE Scholarship, is that these students will likely not meet the rigor requirements put into place by our reform efforts. By not requiring such students to satisfy the same coursework rigor requirements as students on other pathways to high school graduation, we could unintentionally increase the likelihood that a group of students are unprepared for degree-level coursework, and are therefore more likely to lose the HOPE or Zell Miller Scholarship in the future.

Under current law, students eligible for the HOPE or Zell Miller Grant, including those targeted by Senate Bill 329 who achieve a high school diploma by obtaining a technical college diploma or two technical college certificates, may become eligible for the HOPE Scholarship by completing 30 semester hours or 45 quarter hours with a 3.0 GPA at their postsecondary institution. This means that we are not blocking any student from achieving their highest academic potential in current law, rather, we are ensuring that each student finds success in whichever pathway they choose to follow. For these reasons, **I VETO SB 329.**

VETO NUMBER 15

SB 355 Senate Bill 355 allows federal, state and locally-mandated assessments to be optional for certain students. At present, local school districts have the flexibility to determine opt-out procedures for its students who cannot take the assessments in addition to those who choose not to take such assessments. As there is no need for state-

level intervention in addition to the regulations already set in place on a local level, **I VETO SB 355.**

VETO NUMBER 16

SB 383 Senate Bill 383 would allow for an agritourism facility to receive a GDOT permit that would treat an on-premises advertising sign similar to a permitted outdoor advertising sign (e.g. a billboard). However, an on-premises sign at an agritourism facility would be exempt from a five year waiting period required for new permitted outdoor advertisements. With this legislation, an agritourism facility could have a viewing zone on GDOT right-of-way clear cut so that their sign would be viewable to passing motorists. It is concerning that this legislation is so narrowly focused on the needs of one specific industry. Moreover, I do not believe it is in the public interest to clear cut right of way for the benefit of a specific industry when property owners of those facilities could make alternative advertising decisions. For these reasons, **I VETO SB 383.**