GOLD DOME REPORT
2016 SESSION
GEORGIA GENERAL ASSEMBLY

by

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Final Gold Dome Report 2016
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It's an election year! The forty official days of the Georgia General Assembly's legislative Session ended two weeks earlier than normal and lawmakers gaveled the 2016 Session to a close around 12:30 AM on March 25, 2016. Rest assured, bills passed in the "extra" 30 minutes after midnight are legitimate!

Governor Nathan Deal has now ended his review of all of the General Assembly's passed bills. This Report highlights the legislation we followed and/or worked on this Session for our clients and is focused on the passed and signed/vetoed bills.

Georgia made headlines in the Southeast, and nationally, when Governor Deal vetoed Georgia's versions of the "religious freedom" and "campus gun carry" acts. Fueled in part by the election season, the House passed unanimously the "Pastor Protection Act" (HB 757) which acknowledged that no minister or church may be forced to perform same-sex marriage or extend its facilities for such a ceremony. The Senate added a more aggressive version of the bill that protected religious organizations more broadly from adverse State consequences for acts taken in a bona fide religious belief against same-sex marriage or other religious tenets. It was written, for example, to prohibit State refusal of grants and tax attributes to faith-based organizations for their religious beliefs. The Governor indicated that he would not sign the Senate version, and the leadership of both chambers crafted a compromise on the 38th day of the Session to blend the two versions. The compromise, which became known as the "Free Exercise Protection Act," permitted certain faith-based actions that were not in violation of State or federal law, including refusing to hire or continue employment of "LGBT" individuals. The State and Atlanta Chambers of Commerce – and particularly the sports, tourism, restaurant, film production, and other businesses -- opposed the bill with some boycotts threatened by professional sports teams. The Governor promptly **vetoed** the bill, HB 757, and created a striking contrast between Georgia and other Southern states where similar bills were signed into law. Some businesses considering relocation to other states announced their renewed interest in Georgia.

The Governor also **vetoed** two gun bills including HB 859, known as "Campus Carry," authorizing licensed individuals, including college students, to carry guns on campuses, with some limitations as to residences, athletic events, and sororities' and fraternities' housing. The University System presidents opposed the bill with concerns about students bringing concealed weapons on campuses and the possible negative impacts on school disciplinary hearings and day care centers on campuses. The Governor backed up these concerns and vetoed the bill.

Transportation issues also loomed large again. The first $600 million in new proceeds from the 2015 increase in the motor fuels tax led to a slew of proposed new or repaved roads, bridges and the start of major renovation projects along the congested interstate commuting routes and exchanges in north metro Atlanta, Georgia 400, Macon and Savannah. The amount of new transportation construction in State fiscal year 2017 (commencing this July 1) is close

to $1.6 billion once new bond issues are included. How a member voted on the motor fuel tax in 2015 affected his or her successes on legislation and appointments in 2016. Primary elections, held in late May and July of this year, and of course the Presidential election, will determine if action on these three major issues keeps the centrists in charge.

Other major measures in the Governor's education and criminal justice reforms are highlighted in this Report, such as a reduction in the percentage of teacher evaluations determined by testing results and a widening of first offender status and diversion court programming. Governor Deal has presided over major initiatives in education, juvenile justice, criminal justice, mental health, child welfare, and transportation in his first six years. Education discussions about the statewide opportunity school district for low performing schools, on the ballot this November, and curriculum and funding formula reforms, will dominate the 2017 Session.

One very interesting proposal passed, speaking in part to the Governor's commitment to improve the financial viability of strapped rural hospitals. In 2014, Governor Deal established a Rural Hospital Stabilization Committee in an effort to find creative solutions to prevent closures of numerous rural hospitals. This year, SB 258, by Sen. Fran Millar (R-Atlanta), became the vehicle for adding language from HB 919 by Rep. Geoff Duncan (R-Cumming). The end result was the passage of a bill which provides for tax credits for contributions to "rural hospital organizations" (acute care hospitals located in rural counties with 35,000 or fewer residents which participate in both Medicaid and Medicare, provide healthcare primarily to indigent patients and receive at least ten (10) percent of their gross revenues from the treatment of indigent patients). The credits are also permitted on contributions to "critical access hospitals" as defined by the Centers for Medicare and Medicaid Services. The credits are capped for 2017 at $50 million; $60 million for 2018; and $70 million for 2019. No more than $4 million may be contributed to any individual rural hospital organization in a given tax year. The credit for an individual will be 70 percent of his or her contribution expenditure (up to $2,500 per year or whichever is less); for a married couple it is 70 percent of the actual amount expended (no more than $5,000 per year); and for a corporation it is 75 percent of that entity's corporate income tax liability or 70 percent of the amount expended (whichever is less). The Department of Community Health is charged with oversight of the reporting requirements and determining eligible rural hospital organizations. (SB 258's underlying language addressed property tax assessments – allowing individuals to "lock-in" for three years by appealing the tax assessment, and a homestead exemption qualification for eligible Georgia disabled veterans when they meet certain medical qualifications for being disabled.) Governor Deal signed SB 258 as **Act Number 345** on April 26, 2016.

There was also an interesting legislative maneuver, relating to child welfare issues, with the passage of SB 64 and HB 887. Sen. Renee Unterman (R-Buford) had authored SB 3, the "Supporting and Strengthening Families Act," which ran into trouble in the House. SB 3's language proposed to permit a parent to relinquish custody of his or her child to another individual simply by signing a power of attorney document. Some attorneys in the legislature felt that SB 3 circumvented Georgia's guardianship laws; thus, the measure did not come to the House Floor. When HB 887 arrived in the Senate, Sen. Unterman added her language from

SB 3 to that legislation which did pass and was signed into law. However, SB 64, a bill addressing legitimation of children, also passed – but the House had inserted language to essentially strip out the provisions in HB 887 if SB 64 were signed into law after HB 887. Therefore, the Governor was left with the decision to determine whether to allow this handing over of a child to another adult. (Georgia's laws provide that a bill, which addresses the same Code Section and is signed last, prevails.) Thus, the language permitting the addition of the "Supporting and Strengthening Families Act" failed but the other underlying provisions in HB 887 remain. More on these bills is included in our Report below.

There were also some initiatives that did not pass in the fray of the Session or were postponed for next year or even subsequent Sessions. For instance, some of the hot button bills that did not pass included:

- Religious freedom (HB 29, HB 218, HB 756, HB 757, HB 816, HB 837, HB 870, HB 928, SB 129 and SB 284);
- Campus-carry (guns) provisions (HB 186, HB 544, HB 859, HB 1060, SB 161, SB 163, and SB 167);
- Legalized casino gambling (HB 677 and HR 807) and/or pari-mutuel betting (SR 143, SB 264);
- Expansion of Sunday sales of alcohol (the "brunch law," HB 276 and HB 535);
- Health insurance agents' assurance of guaranteed commissions on policies sold to small groups and individuals (HB 838, SB 1);
- Passage of reforms or changes to Georgia's Certificate of Need Laws (HB 247, HB 248, HB 249, HB 482, HB 695, HB 1055, HR 805);
- Implementation of "concierge medicine" (HB 882; SB 265);
- Blaine Amendment changes so that religious nonprofit entities have greater access to State funds for programs (SR 388);
- Constitutional Amendment to eliminate the ad valorem tax permission (SR 604) and the "More Take Home Pay Act" (HB 445);
- Broader medical cannabis provisions, including additional diseases which could be treated and the growing of medical cannabis in Georgia (HB 722, HB 783 (one version), HB 1077 and SB 1);
- Family Medical Leave Act (HB 824, SB 411, and SR 1035); and
- Expansion of Georgia's Medicaid program to draw down additional federal funds (HB 823, SB 368) and the requirement of legislative authorization prior to submission of federal waivers pursuant to the "Patient Protection and Affordable Care Act" (HB 1160).

It is highly likely that some of the failed ideas will emerge in the 2017 Session, including new versions of "religious freedom" and "campus carry" bills. Several commentators believe 2017 will be dominated by education funding reform and healthcare issues. In particular, the 2017 Session will touch on the health financing issues including the reconsideration of the hospital provider tax that in part funds Georgia's Medicaid program and possibly a version of Medicaid expansion (depending on what options are presented by the healthcare task force created by the Georgia Chamber of Commerce).

Lawmakers did accomplish their constitutional requirement: setting a $23.7 billion dollar budget for FY 2017 (HB 751). We provided a comprehensive outline of the FY 2017 budget in our Report on March 22, 2016. Governor Deal signed HB 751 as **Act Number 517** on May 2, 2016; it takes effect on July 1, 2016. The Budget for the new fiscal year beginning on July 1, 2017 includes:

- Increases for education;
- Rate increases for numerous providers of human services;
- Across the board salary increases for State employees plus enhancements for many workers (teachers, bus drivers, public health nurses, school nurses, mental hospital. prison staff, nutrition workers, and law enforcement to name a few);
- $300 million to offset the austerity reduction made to school systems statewide, allowing those systems the flexibility to eliminate teacher furlough days, increase instructional days and provide for teacher pay raises; and
- Cost-of-living increases for State retirees.

For education, there were changes including:

- Early Care and Learning has a total budget of more than $792 million (which includes almost $358 million in State Lottery funds):
    - Funds are included in the amount of more than $7.9 million for merit based pay adjustments and employee recruitment and retention initiatives effective July 1, 2016;
    - $26 million is included to implement a new compensation model to retain lead teachers, increase assistant teacher salaries and maintain classroom quality; and
    - More than $2.3 million is added to increase benefits for pre-Kindergarten lead and assistant teachers and provide program providers with the flexibility to combine benefits and non-instructional costs as needed.

- The Department of Education has a budget of more than $11 billion ($8.9 billion of this is State funds):
    - Communities in Schools received a boost of $150,000 for local affiliates;
    - $2.8 million was added to increase funds for information technology supporting local school systems;
    - $528,121 was added in the Non-Quality Basic Education Formula Grants for residential treatment facilities based on attendance;
    - There were added funds across all programs for merit-based pay adjustments and employee recruitment and retention initiatives effective July 1, 2016;
    - As mentioned above, $300 million is added to offset austerity reduction in order to provide local education authorities the flexibility to eliminate teacher furlough days, increase instructional days and increase teacher salaries;
    - $124 million is included for enrollment growth and training and experience;

- Salary adjustments of three percent are included for school nurses and school bus drivers, totaling more than $3.4 million; and
- More than $8 million is included for the State Charter Schools Commission supplement and almost $3 million is added for charter system grants.

In higher education, there were several big adjustments:

- $44.4 million for formula earnings based on enrollment and increased square footage;
- $68.4 million for merit-based pay adjustments and employee recruitment and retention (for both the Technical College System of Georgia and Board of Regents);
- $8 million is included for Regents' system's facility major improvements and renovations statewide;
- almost $54 million in added lottery funding for the HOPE scholarship program;
- $29.4 million for Move on When Ready program; and
- Two new cancellable loan programs were added (large animal veterinarians and members of the Georgia National Guard).

There were also a number of adjustments, with the Department of Community Health, in Medicaid and PeachCare for Kids® programs:

- $61 million for Medicaid enrollment growth;
- More than a $24 million increase to cover expenses relating to higher pharmacy costs of Hepatitis C and Cystic Fibrosis drugs (in the Aged, Blind and Disabled program);
- an added $26.2 million rate increase for primary care and OB/GYN providers' reimbursement for certain service codes (in the Low-Income Medicaid program);
- increases for occupational and physical therapists' Children's Intervention Services;
- a three percent inflation adjustment (on 2012 cost reports) for nursing home providers for a total of $11.3 million in State funds;
- Almost $3.8 million for increases for caregiver rates under the Independent Care Services Program;
- a five percent boost in rates for Adult Day Health Centers (putting them on par with rates paid to providers in the SOURCE and CCSP programs);
- $250,000 additional funding for the Champions for Children initiative for medically fragile children who do not qualify for the Katie Beckett waiver; and
- $300,000 increase in funds for the establishment of a Patient Centered Medical Home (PCMH) grant program for rural stabilization.

The Department of Public Health also received more funds, including:

- $1.38 million increase for the final phase-in for grants-in-aid new funding formula for public health departments (holding the counties harmless of the new formula);
- More than $1.7 million for the provision of therapies to individuals with congenital disorders pursuant to O.C.G.A. § 31-12-6; and

- $2 million for a new program to be known as Positive Alternatives for the Pregnancy and Parenting Grant program.

Within the Department of Human Services and Division of Family and Children's Services, budget writers included:

- $51 million to address the growth in the State's foster care utilization and $4.3 million for a rate increase (1.5 percent) for Child Caring Institutions, Child Placing Agencies, foster parents and relatives;
- $7.3 million for the ongoing increase of child protective caseworkers (this adds 175 more caseworkers);
- $584,049 in funds for the provision of 10 additional kinship navigators;
- More than a $2 million increase for 1,000 Non-Medicaid Home and Community Based Service slots to help the elderly and additional funding for the Meals on Wheels initiative and senior nutrition programs ($500,000 more);
- More than $5.4 million in additional funds so the State may hire 180 more eligibility caseworkers (for the Food Stamp program) to avoid federal penalties and sanctions;
- Transfer of the Community Care Services waiver program from DHS to DCH; and
- $1 million in funds to move 167 senior citizens from nursing homes into community settings.

Public safety also received new funding and some of which included:

- $3.8 million to expand Georgia's accountability courts and community-based treatment options for juveniles (across programs in State agencies, including the Criminal Justice Coordinating Council);
- $2.6 million in increased funding to expand vocational/technical program contracts at four State prisons (within the Department of Corrections' budget for State Prisons); and
- $7.6 million to provide for a salary increase for certified law enforcement officers within the Department of Public Safety, Department of Natural Resources and Georgia Bureau of Investigation.

In the interim, there will be elections to contend with and new faces to learn. Overall, there are 16 members of the House who will not return in 2017 and an additional two members of the Senate are not seeking re-election. There are still a few contested races, but several districts have contests between Republican leadership incumbents and Tea Party advocates. There remain some elections in the fall between Republicans and Democrats for House and Senate seats in some areas.

There were an abundance of "study committees" adopted. Thus, despite elections in the fall, there will be work conducted during the interim that often leads to new legislation. The following study committees were created:

2016 House Study Committees

- HR 978, by Rep. Debbie Buckner (D-Junction City) creates the ***House Study Committee on Historic Site Preservation.***

- HR 979, by Rep. Penny Houston (R-Nashville) creates the ***House Study Committee on Programs that Provide Services for the Reading to the Blind and the Visually Impaired.***

- HR 1093, by Rep. Kimberly Alexander (D-Hiram) creates the ***House Study Committee on Mental Illness Initiative, Reform, Public Health, and Safety.***

- HR 1135, by Rep. Dave Belton (R-Buckhead) creates the ***House Study Committee on Base Realignment and Closure.***

- HR 1341, by Rep. Richard Smith (R-Columbus) creates the ***House Study Committee on Professional Employer Organizations.***

- HR 1363, by Rep. Wendell Willard (R-Sandy Springs) creates the ***House Special Study Committee on Judicial Qualifications Commission Reform.***

- HR 1577, by Rep. "Able" Mable Thomas (D-Atlanta) creates the ***House Study Committee on Georgia Minority Participation in the Film and Television Production Industry.***

- HR 1605, by Rep. Chuck Martin (R-Alpharetta) creates the ***House Study Committee on Regional Transit Solutions.***

2016 Senate Study Committees

- SR 360, by Sen. Brandon Beach (R-Alpharetta) creates the ***Senate Data Security and Privacy Study Committee.***

- SR 412, by Sen. Harold Jones II (D-Augusta) creates the ***Senate Cyber Challenge Study Committee.***

- SR 467, by Sen. Donzella James (D-Atlanta) creates the ***Senate Higher Education Access and Success for Homeless and Foster Youth.***

- SR 842, by Sen. William Ligon, Jr. (R-Brunswick) creates the ***Senate Study Committee on the Legislative Process.***

- SR 974, by Sen. Renee Unterman (R-Buford) creates the ***Senate Surprise Billing Practices Study Committee.***

- SR 1001, by Sen. Fran Millar (R-Atlanta) creates the ***Senate Study Committee on Higher Education Affordability.***

- SR 1032, by Sen. Jeff Mullis (R-Chickamauga) creates the ***Senate Sexual Offender Registry Study Committee.***

- SR 1056, by Sen. Michael 'Doc' Rhett (R-Marietta) creates the ***Senate Study Committee on the Premium Assistance Program.***

- SR 1059, by Sen. Bruce Thompson (R-White) creates the ***Senate Study Committee on Nonembryonic and Nonfetal Cell Therapy.***

- SR 1085, by Sen. Steve Gooch (R-Dahlonega) creates the ***Senate Regional Transit Solutions Study Committee.***

- SR 1091, by Sen. Charlie Bethel (R-Dalton) creates the ***Senate Study Committee on Hearing Aids for Children.***

- SR 1098, by Sen. JaNice VanNess (R-Conyers) creates the ***Senate Crime Study Committee.***

- SR 1131, by Sen. Brandon Beach (R-Alpharetta) creates the ***Senate Affordability of Death Study Committee.***

- SR 1132, by Sen. Brandon Beach (R-Alpharetta) creates the ***Senate Study Committee on Venture Capital Investments in Georgia.***

- SR 1154, by Sen. Butch Miller (R-Gainesville) creates the ***Senate Emergency Cardiac Care Centers Study Committee.***

- SR 1159, by Sen. Valencia Seay (D-Riverdale) creates the ***Senate Camden County Spaceport Study Committee.***

- SR 1165, by Sen. Butch Miller (R-Gainesville) creates the ***Senate Opioid Abuse Study Committee.***

- SR 1166, by Sen. Marty Harbin (R-Tyrone) creates the ***Senate State Sponsored Self-Insured Group Health Insurance Plan Study Committee.***

- SR 1171, by Sen. Joshua McKoon (R-Columbus) creates the ***Senate Judicial Qualifications Study Committee.***

2016 Joint Study Committees

- HB 1036, by Rep. Bill Hitchens (R-Rincon) creates the ***State Commission on Petroleum Pipelines Joint Study Committee.***

- SR 876, by Sen. Steve Gooch (R-Dahlonega) creates the ***Joint High-Speed Broadband Communications Access for all Georgians Study Committee.***

- SR 883, by Sen. Brandon Beach (R-Alpharetta) creates the ***Joint Study Committee on Industry Incentive for Financial Technologies and the Payment Processing Industry.***

- SR 1027, by Sen. Jeff Mullis (R-Chickamauga) creates the ***Joint Music Economic Development Study Committee.***

- SR 1038, by Sen. Jeff Mullis (R-Chickamauga) creates the ***Alternative Fuels Infrastructure and Vehicles Joint Study Committee.***

The following legislative initiatives, broken by subject matter, passed the General Assembly in 2016. We have indicated final action taken by the Governor and their effective dates.

Agriculture

HB 1030, by Rep. Sam Watson (R-Moultrie), changes the definition for the term, 'licensee,' and the composition of the Georgia Seed Development Commission found in O.C.G.A. § 2-4-3. The Commission will still be composed of 11 members (no longer requiring a "farmer" but a "licensee" as appointed members of this Commission), and it reduces the number of members for a quorum for conducting business from six to five voting members. Governor Deal signed this legislation as **Act Number 555** on May 3, 2016. The changes take effect on July 1, 2016.

Animals

SB 184, by Sen. Ellis Black (R-Valdosta), provides for a "hunting dog" classification in O.C.G.A. § 4-8-1.2. Specifically, it adds that any "domestic dog that is registered with the American Kennel Club or United Kennel Club as a sporting breed group dog, hound breed group dog, or nonsporting breed group dog or that is of a breed used in the lawful pursuit of hunting in this State pursuant to Title 27, that is used during an established hunting season to aid an individual to pursue or hunt wildlife, and whose owner or other member of the household has a hunting permit from the Department of Natural Resources shall be classified as a hunting dog, and the owner of any such dog shall receive the same registration, licensing, or permitting fee from any local government as is available to owners of dogs which have been spayed or neutered." The change does not impact a local government's ability to address vicious, abandoned, or stray dogs. Governor Deal signed this legislation as **Act Number 366** on April 26, 2016; the Act takes effect on July 1, 2016.

SB 356, by Sen. Michael Williams (R-Cumming), addresses impounded animals and their care in Chapter 11 of Title 4. It defines "owner" in O.C.G.A. § 4-11-2(5.1) to mean a "person who intentionally exercises custody, control, possession, or ownership of an animal." It also amends O.C.G.A. § 4-11-9.3(b) regarding providing care for an impounded animal. It retains the provision for the person who provides such care to have a lien on the animal for the reasonable costs of the care – that lien may be foreclosed in any court of competent jurisdiction to hear civil cases. Also, in subsection (c), it requires any person impounding an animal to be authorized to return the animal to its owner upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order *unless* the owner has been (a) convicted of, pled guilty to, or pled *nolo contendere* to animal cruelty or dog fighting under any local, state or federal law, regulation or ordinance or (b) if the owner, in a prior administrative or legal action in Georgia or any other state was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under O.C.G.A. § 16-12-37. The legislation also addresses disposal of impounded animals in O.C.G.A. § 4-11-9.6 which will now permit the government agency "having custody of an animal impounded pursuant to this article which is not returned to the owner as provided in Code Section 4-11-9.3 and Code Section 4-11-9.5, or when ownership of the animal is

relinquished by the owner, may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids, adoption, or, if in the opinion of a licensed accredited veterinarian or a veterinarian employed by a state or federal government and approved by the Commissioner such animal has a temperament or condition such that euthanasia is the only reasonable course of action by humanely disposing of the animal." It also establishes a new Code Section at O.C.G.A. § 4-11-9.8 so that an agency impounding one or more animals as part of any investigation of a Code violation or otherwise providing care for one or more animals impounded may file a petition in a court of competent jurisdiction to hear civil cases requesting the court to require the owner of the animal or animals to pay into the registry of such court funds in an amount sufficient to secure payment of all anticipated costs of impoundment and care. It outlines the requirements of the petition and how service of the petition on the owner is to be made. It establishes a hearing process and requires the court to obtain payment into the court's registry from the owner. Governor Deal signed this initiative as **Act Number 348** on April 26, 2016. This legislation took effect upon signature.

Banking and Finance

HB 811, by Rep. Bruce Williamson (R-Monroe), is the annual banking law update in Title 7. The Georgia Bankers Association, the Bank Counsel Section, and the Department of Banks and Banking worked on this legislation. Part I of the legislation, concerning the Department of Banking and Finance "generally:"

- Addresses in O.C.G.A. § 7-1-36 duties of the commissioner and deputy commissioner and examiners within the Department and their oath of office, eliminating the current bond requirements in the law for these individuals.
- Amends O.C.G.A. § 7-1-42, concerning enforcement of payment of fees owed to the Department, clarifying that the Department may proceed through the Attorney General to collect any outstanding fees not just the amount fixed as fees for examinations.
- Amends O.C.G.A. § 7-1-68, eliminating in (c) the requirement that financial institutions publish annually abstract summaries of two of its reports of condition designated for this purpose by the Department and file proof of such publication with the Department.
- Repeals O.C.G.A. § 7-1-96 and O.C.G.A. §7-1-97, concerning the liability on bonds for non-performance of duty and costs of actions by or against the Department.
- Addresses emergency closings of financial institutions in O.C.G.A. § 7-1-111 so that when the Governor may proclaim that an emergency exists and such state of emergency proclamation is to authorize financial institutions to "elect to close."
- Adds a definition for "virtual currency" in O.C.G.A. § 7-1-680.
- Adds in O.C.G.A. § 7-1-690 that the Department is authorized to enact rules and regulations that apply solely to persons engaged in money transmission or the sale of payment instruments involving virtual currency.

Part II of the legislation addresses Banks and Trust Companies and in part:

- Repeals O.C.G.A. § 7-1-11, concerning the registration of non-resident corporations.

- Repeals O.C.G.A. § 7-1-239.5, regarding fees for instruments drawn on other institutions.
- Changes references to "bank" to "financial institution."
- Amends O.C.G.A. § 7-1-372, regarding remission of checks at par, collection charge, and service charge, so that a "commercial bank may deduct a reasonable collection charge covering its actual expenses from the remittance for any check forwarded to it for collection and remittance as a special collection item and may impose a service charge as authorized by Code Section 44-12-196, relating to when an instrument on which a banking or financial organization is directly liable is presumed abandoned."
- Adds in O.C.G.A. § 7-1-591 that a bank domiciled in Georgia or a bank holding company domiciled in Georgia and operating under its laws and their subsidiaries or agents may establish a representative office anywhere upon registering with the Department.
- Adds in O.C.G.A. § 7-1-592 that a bank or bank holding company domiciled in Georgia and operating under the laws of the United States or domiciled outside of Georgia and operating under the laws of such other state or territory or the United States or its subsidiary or agent, may establish representative offices anywhere in Georgia provided that such bank or bank holding company conforms to the requirements of its primary regulator.
- Changes the registration of banks or bank holding companies and repeals O.C.G.A. § 7-1-594 regarding registration of banks or bank holding companies conducting agency relationships.
- Changes permissions on acquisition of bank branch offices in O.C.G.A. § 7-1-601(3), permitting a bank to acquire a branch office from another bank without acquisition of the entire bank – eliminating the provision that an out-of-state bank with no lawfully established branch office in Georgia may not directly or indirectly make such an acquisition.
- Clarifies the time for the Department to approve or disapprove, in O.C.G.A. § 7-1-602, an application for bank branch offices in (b) (allowing the Department 90 days to make such approval or disapproval).
- Amends O.C.G.A. § 7-1-603 and the definition for an "automated teller machine" so that it includes electronic equipment that utilizes or has the capability to utilize live video chat with offsite bank personnel who may assist with banking services, including but not limited to, account initiation. It also permits in (c)(1) that any federally insured bank or credit union may operate automated teller machines throughout the State.
- Amends requirements of an out-of-state bank that is to be the resulting bank of an interstate merger transaction and the requirements it is to follow. One of which is that, prior to consummation of the merger, the out-of-state bank is to certify to the Department that while it has a branch or other location in Georgia, it will maintain deposit insurance issued by a federal public body.
- Amends the law on restrictions on "de novo" branches in O.C.G.A.§ 7-1-628.8 – allowing either an out-of-state bank or a Georgia bank to establish and maintain such.

Part III addresses credit unions and in part:

- Eliminates the requirement for the posting in a credit union office of the notice of the annual meeting or any special meeting in a "conspicuous" place at least ten days prior to such meeting in O.C.G.A. § 7-1-630(e)(1).
- Amends powers of credit unions, and in part at O.C.G.A. § 7-1-650(9), limits a credit union from acquiring and holding property for more than five years without prior written approval by the Department.
- Changes the reasons to remove a director and the removal process of a director in O.C.G.A. § 7-1-655.

Part IV of the legislation addresses Georgia Merchant Acquirer Limited Purpose Banks to in part:

- Add in O.C.G.A. § 7-9-5.1 et seq. how those will be organized and the duties of their board of directors and officers.
- Permits the merchant acquirer limited purpose banks to merge or consolidate upon compliance with the requirements in Chapter 9 and the process to be followed.

Part V addresses criminal acts and related provisions and in part:

- Eliminates the Department of Banking and Finance's ability to have the right to submit discovery or reports of criminal violations to a grand jury in O.C.G.A. § 7-1-840 and instead requires that the appropriate state prosecuting authority have that right or otherwise seek an indictment of any criminal violations of the laws of Georgia known by it to have occurred in such counties. It permits any United States Attorney the ability to submit information to a grand jury or seek an indictment of any criminal violations.
- Amends O.C.G.A. § 7-1-842 concerning felonies of directors, officers, agents, and employees of financial institutions and aiding and abetting false entries, and eliminates such when any director, officer, agent or employee of a financial institution knowingly violates or is involved in violating any provision of the charter or bylaws of said financial institution.

Part VI addresses Mortgage Lenders and Brokers where it:

- Replaces "Nationwide Mortgage Licensing System and Registry" with "Nation-wide Multistate Licensing System and Registry" as found in O.C.G.A. § 7-1-1000 et seq.
- Amends O.C.G.A. § 7-1-1004 regarding the issuance or denial of license for a mortgage broker or lender and pre-licensing education requirements authorizing the Department to enact rules and regulations related to the expiration of pre-licensing education.

Part VII addresses Building and Loan Associations and Various Changes and in part:

- Eliminates the references to "building and loan association" as those charters no longer exist.

- Addresses the conversions of federal savings banks to state savings banks.

Governor Deal signed HB 811 into law on April 26, 2016 as **Act Number 450**. The provisions of HB 811 take effect on July 1, 2016.

SB 283, by Sen. John Kennedy (R-Macon), provides for multibank pooling of depositories for the acceptance of deposits of public funds from public bodies in Chapter 8 of Title 45. It also establishes the requirements of the State Treasurer, relating to depositories using pooled methods of securing deposits of public funds in O.C.G.A. § 45-8-13.1. Governor Deal signed this measure as **Act Number 373** on April 26, 2016. This legislation took effect upon signature of the Governor.

Civil Practice, Code Update and Courts

HB 513, by Rep. Ron Stephens (R-Savannah), adds changes to O.C.G.A. § 9-11-11.1 concerning the exercise of rights of freedom of speech and to petition the government for redress of grievances. It adds in (b)(1) that a "claim for relief against a person or entity arising from any act of such person or entity which could reasonably be construed as an act in furtherance of the person's or entity's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern shall be subject to a motion to strike unless the court determines that the non-moving party has established that there is a probability that the non-moving party will prevail on the claim." Further, at (2) of this subsection, it adds that in making the determination, the court is required to consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based – except when there exists a claim by a non-moving party who is a public figure plaintiff, then the non-moving party is entitled to discovery on the sole issue of actual malice when malice is relevant in the court's determination. At (3), it states that if the court makes the determination that the non-moving party has established a probability that he/she would prevail on the claim, neither that determination nor the fact of such determination is admissible in evidence at any later state of the case or in a subsequent action and no burden or proof or degree of proof otherwise applicable is affected by that determination in any later stage of the case or subsequent proceeding. It permits in (b.1) that prevailing parties on a motion to strike are to be granted recovery of attorney's fees and expenses to be determined by the court. If found frivolous or found to be a delay tactic, then the court is to award attorney's fees and expenses of litigation to the non-moving party prevailing on the motion for the attorney's fees and expenses of litigation associated with the motion in an amount to be determined by the court. It adds in (g) that this code section will not apply to any action brought by the Attorney General or a prosecuting attorney, or a city attorney who is acting as a prosecutor to enforce laws aimed at public protection. The legislation also amends O.C.G.A. § 51-5-7(4), concerning torts and libel and slander, so that statements made in good faith as a part of an act in furtherance of the person's or entity's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern, as defined in subsection (c) of Code Section 9-11-11.1, are deemed privileged communications. It also adds at O.C.G.A. § 5-6-34(a)(13) that judgments under O.C.G.A. §

9-11-11.1 are appealable to the Supreme Court and Court of Appeals. Governor Deal signed this legislation as **Act Number 420** on April 26, 2016. The changes in HB 513 take effect on July 1, 2016.

HB 555, by Rep. Joyce Chandler (R-Grayson), amends O.C.G.A. § 15-11-64, adding a new subsection (b), to require reporting of statistics for juveniles seeking abortions without parental notice. The clerk of each juvenile court is to report to the Administrative Office of the Courts the number of petitions or motions filed under O.C.G.A. § 15-11-682(b) for the previous calendar year and, of that number, the number of instances in which the court appointed a guardian ad litem; the number of instances in which the court appointed counsel; the number of times in which the judge issued an order authorizing an abortion without notification; the number of matters in which the judge denied such an order; and, of the last, the number of denials from which an appeal was filed, the number of appeals resulted in denials being affirmed and the number of appeals that resulted in reversals of such denials. These reports by the clerks are to be made by March 15 of each year for the prior calendar year. Reports are to be held confidentially by the Administrative Office of the Courts and the Office is only permitted to report aggregated statistics pursuant to O.C.G.A. § 16-12-141.1(g) (this is the current Code Section requiring the Department of Public Health to report by June 30 of each year on statistics data it has obtained from the Administrative Office of the Courts on numbers of petitions or motions filed by juveniles seeking abortions). Reports are to be destroyed six months after submission to the Administrative Office of the Courts. Governor Deal signed this legislation as **Act Number 424** on April 26, 2016. The Act takes effect on July 1, 2016.

HB 691, by Rep. Kevin Tanner (R-Dawsonville), addresses the removal of municipal court judges and adds in O.C.G.A. § 36-32-2(a) that an individual who is appointed as a judge by the governing authority of a municipal corporation is to serve for a minimum of one year and until a successor is appointed or unless the judge is removed from office (as provided in O.C.G.A. § 36-32-2.2). The term is to be memorialized in a written agreement between the individual and the governing authority or in an ordinance or charter. If the judge is serving as a municipal court judge in a consolidated government, the local act is to determine the term of the judge. Governor Deal signed this legislation as **Act Number 433** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 737, by Rep. Johnnie Caldwell, Jr. (R-Thomaston), is the annual Code Revision bill and the work of the Code Revision Committee taking out obsolete references, portions ruled unconstitutional, preempted or superseded by subsequent laws. Governor Deal approved this bill as **Act Number 625** on May 3, 2016. The legislation took effect upon signature of the Governor.

HB 759, by Rep. Wendell Willard (R-Sandy Springs), addresses the regulation of the practice of law in O.C.G.A. § 15-19-52. It specifically provides that activities by financial institutions (banks and credit unions) are not to constitute the unauthorized practice of law (when the financial institution, as is defined by O.C.G.A. § 7-1-4 and has deposits which are federally insured). This does not prohibit these financial institutions from providing financial services but permits them to do closings on loans without the use of an attorney in certain situations.

Governor Deal signed this legislation as **Act Number 439** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 808, by Rep. Wendell Willard (R-Sandy Springs), was carried by Sen. Dean Burke, MD (R-Bainbridge) in the Senate. The bill creates a new Judicial Qualifications Commission in O.C.G.A. § 15-1-19. This Commission will be composed of seven members. The final legislation establishes membership in this Commission as follows:

- For the period January 1, 2017 until June 30, 2017
  - Two judges from any court of record to be appointed by the Supreme court
  - One member of the State Bar of Georgia, with active status, and a registered voter in Georgia for at least ten years will be appointed by the President of the Senate from a list of ten nominees from the board of governors from the State Bar of Georgia provided that if a nominee is not selected from such list, the board of governors is to submit another slate of ten nominees
  - One member of the State Bar of Georgia with active status, and a registered voter in Georgia for at least ten years will be appointed by the Speaker of the House of Representatives from a list of ten nominees from the board of governors from the State Bar of Georgia provided that if a nominee is not selected from such list, the board of governors is to submit another slate of ten nominees
  - One citizen member who is to be a Georgia registered voter but not a member of the State Bar of Georgia to be appointed by the Speaker of the House of Representatives
  - One citizen member who is to be a Georgia registered voter but not a member of the State Bar of Georgia to be appointed by the President of the Senate and
  - One member of the State Bar of Georgia who has been active with the State Bar of Georgia for at least ten years and a Georgia registered voter appointed by the Governor to serve as a chairperson of the commission.
- For the period July 1, 2017 through December 31, 2020
  - Two judges of any court of record appointed by the Supreme Court
  - One member of the State Bar of Georgia who shall have been an active status member with the State Bar of Georgia for at least ten years and who is a Georgia registered voter appointed by the President of the Senate from a list of at least ten nominees from the board of governors from the State Bar of Georgia; provided, however, that if a nominee is not selected from such list, the board of governors is to submit another slate of ten nominees
  - One member of the State Bar of Georgia who shall have been an active status member with the State Bar of Georgia for at least ten years and who is a Georgia registered voter appointed by the Speaker of the House of Representatives from a list of at least ten nominees from the board of governors from the State Bar of Georgia; provided, however, that if a nominee is not selected from such list, the board of governors is to submit another slate of ten nominees

    - One citizen member who is a Georgia registered voter but shall not be a member of the State Bar of Georgia appointed by the President of the Senate and
    - One member of the State Bar of Georgia who shall have been an active status member of the State Bar of Georgia for at least ten years and a Georgia registered voter appointed by the Governor to serve as a chairperson of the Commission
- On an after January 1, 2021, the members of the commission are to serve for a term of three years and until their successors are appointed
    - Two judges of any court of record appointed by the Supreme Court
    - One member of the State Bar of Georgia who shall have been an active status member with the State Bar of Georgia for at least ten years and who is a Georgia registered voter appointed by the President of the Senate from a list of at least ten nominees from the board of governors from the State Bar of Georgia; provided, however, that if a nominee is not selected from such list, the board of governors is to submit another slate of ten nominees
    - One member of the State Bar of Georgia who shall have been an active status member with the State Bar of Georgia for at least ten years and who is a Georgia registered voter appointed by the Speaker of the House of Representatives from a list of at least ten nominees from the board of governors from the State Bar of Georgia; provided, however, that if a nominee is not selected from such list, the board of governors is to submit another slate of ten nominees
    - One citizen member who is a Georgia registered voter but shall not be a member of the State Bar of Georgia appointed by the President of the Senate and
    - One member of the State Bar of Georgia who shall have been an active status member of the State Bar of Georgia for at least ten years and a Georgia registered voter appointed by the Governor to serve as a chairperson of the Commission

Lists of nominees required are to be submitted to the Senate no later than the third Monday in January. The Commission is authorized to hold disciplinary hearings for judges and will have the authority to remove judges in certain instances. This Act is to become effective on January 1, 2017 if the Constitutional Amendment on the existing Judicial Qualifications Commission is abolished and the new language ratified. The accompanying Constitutional Amendment also passed and must be placed on the ballot for voter approval. See HR 1113, by Rep. Wendell Willard (R-Sandy Springs); it abolishes the previous Judicial Qualifications Commission and allows for the new commission to be established. Governor Deal signed this legislation, HB 808, as **Act Number 605** on May 3, 2016. He signed HR 1113 on May 3, 2016 as **Act Number 537**. This Act, HB 808, takes effect on January 1, 2017 if the Constitutional Amendment is ratified in November.

HB 927, by Rep. Christian Coomer (R-Cartersville), is the "Appellate Jurisdiction Reform Act of 2015." Highlights of this legislation include:

- An amendment to O.C.G.A. § 15-2-19 authorizing the Justices of the Supreme Court to appoint law assistants for the use of the court and to remove them at pleasure. It also

now provides that a law assistant may be a new graduate of a law school and not yet a member of the State Bar of Georgia as long as he or she is admitted within one year of their appointment. A similar amendment is added for the Court of Appeals' law assistants at O.C.G.A. § 15-3-9(a).

- An amendment to O.C.G.A. § 15-3-1, permitting the Court of Appeals more flexibility in its procedures for hearing cases – it maintains the 15 judges on this Court and adds "decisions as precedent" and how the Court may provide for rule for the establishment of precedent and the manner in which prior decisions of the Court may be overruled.
- A new Code Section at O.C.G.A. § 15-3-3.1, changing jurisdiction of certain cases heard by the Supreme Court and transferring that jurisdiction to the Court of Appeals (those involving title to land; equity cases (except where a sentence of death was imposed or could be opposed and cases concerning the execution of a death sentence); cases involving wills; cases involving extraordinary remedies (except where a death sentence was imposed or could be imposed and cases concerning the execution of a death sentence); all divorce and alimony cases; and cases not reserved to the Supreme Court or conferred on other courts).
- An amendment to O.C.G.A. § 15-2-1.1, increasing the numbers of Supreme Court justices from seven to nine.
- Adding a new Code Section at O.C.G.A. § 15-2-10 so that the additional judgeships created in 2016 are to be appointed by the Governor for a term beginning on January 1, 2017 and continuing through December 31, 2018 and until their successors are elected and qualified. Their successors are to be elected in the manner provided by law in nonpartisan judicial election in 2018 for a term of six years beginning on January 1, 2019.
- An amendment to O.C.G.A. § 15-2-16(a) so that cases decided by the Supreme Court, with at least a quorum but less than nine Justices, the concurrence of at least five is required to the rendition of a judgment.
- An amendment to O.C.G.A. § 15-2-4, changing the terms of the Supreme Court.

There was some opposition to the increase in the number of justices on the Supreme Court but the legislation passed and generally takes effect upon approval by the Governor. Governor Deal signed this legislation as **Act Number 626** on May 3, 2016. The section of the legislation addressing procedures for the Court of Appeals becomes effective on July 1, 2016. The section of the legislation involving cases, previously falling under the jurisdiction of the Supreme Court and now falling under the jurisdiction of the Court of Appeals, takes effect on January 1, 2017 and will apply to cases in which a notice of appeal or application to appeal is filed on or after such date. The new terms of court become effective on December 5, 2016 but the term of court which commences on the first Monday in September 2016 will end on December 16, 2016.

HB 1004, by Rep. Rick Jasperse (R-Jasper), changes current law in Titles 15 and 44 to provide requirements and certifications for maps, plats and plans which are to be filed for record in superior courts. In part, it requires, at O.C.G.A. § 15-6-67, that the "clerk of the superior court to file and record maps, plats and subdivision plats, and condominium plats, condominium site plans, condominium plot plans, and condominium floor plans presented in

accordance with Code Section 44-3-83 relating to real estate in the county when submitted for filing as provided in this Code Section and accompanied with any required filing fees or costs." It further outlines the information which is required in the caption of each map, plat, or plan page image and the surveyor certification and specified language. It further provides for electronic processing by clerks of superior courts. This legislation was signed by Governor Deal as **Act Number 351** on April 26, 2016. The contents of this Act take effect on January 1, 2017.

HB 1025, by Rep. Tom Taylor (R-Dunwoody), addresses violations of ordinances of counties and State authorities. It amends O.C.G.A. § 15-10-62(b) so that citations for or accusations of violations of ordinances are to be personally served upon the person accused – there is an exception for a citation for or accusation of a violation of an ordinance concerning the condition of real property in (c). It requires a posting of a copy of such citation on the door of the premises where the alleged violation occurred; mailing of a copy by registered or certified mail or statutory overnight delivery to the owner of the premises at the address of record (on file with tax commissioner); and filing a copy of such citation for or accusation of violation with the clerk of the magistrate court. If service is then perfected and the accused fails to appear for trial, an *in rem* judgment and lien against the real property is to be the exclusive penalty. Governor Deal signed this legislation as **Act Number 569** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 262, by Sen. Jesse Stone (R-Waynesboro), changes current law relating to when a judge, judicial officer, grand juror, or trial juror may be disqualified from presiding or serving, as applicable, due to being related by consanguinity or affinity to a party. Specifically, it amends O.C.G.A. § 15-1-8(a)(2) as to when a judge or judicial officer is disqualified. Under current law, when the judge is related by consanguinity or affinity within the sixth degree, then he or she would be disqualified. This legislation moves that relation to within the third degree for the disqualification to occur. Disqualification of grand jurors are addressed in O.C.G.A. § 15-12-70 and for trial jurors at O.C.G.A. § 15-12-135(a) (moving from within the sixth degree to the third degree of consanguinity or affinity for disqualification). It further amends O.C.G.A. § 15-6-11 and provides that by court rule or standing order that a superior court may provide for the filing of pleadings and other documents and for the acceptance of payments and remittances by electronic means. Similar changes are made in O.C.G.A. § 15-7-5 for state courts. It also clarifies in O.C.G.A. § 15-10-53 that pleadings or documents filed electronically are to be deemed filed as of the time of its receipt by the electronic filing service provider and it permits the court to establish a procedure for making transfers of funds by electronic means. This language was Rep. Barry Fleming's (R-Harlem) bill, HB 1027. Governor Deal signed this measure into law as **Act Number 369** on April 26, 2016. Changes in this Act take effect on July 1, 2016.

SB 367, by Sen. John Kennedy (R-Macon), is the Criminal Justice Reform Council's recommendations. It adds in O.C.G.A. § 15-1-18(a) that accountability courts are not only drug court divisions, mental court divisions or veterans court divisions but now also include superior, state, or juvenile court with such divisions and adds an "operating under the influence court division or a juvenile court that has a family treatment court division" to these

accountability courts. Thus, any court with jurisdiction over DUI or boating under the influence cases may establish a division designated to handle those cases and provide an alternative to the traditional justice system with the goal of reducing recidivism. It outlines the requirement for the use of these courts for a "risk and needs assessment" in O.C.G.A. § 15-1-19. It outlines the duties of the Council of Accountability Court Judges (such as it requires the Council to establish standards and practices for the operating under the influence court divisions). Each court must establish a planning group, comprised of judges, prosecuting attorneys, public defenders, and other court officials, to establish a plan that will govern the operations of the division based on State standards. The legislation permits a juvenile court to create "family treatment court division" in an effort to address dependency issues. There are records provisions so as to allow a judge the ability to restrict access to criminal records of individuals who are placed into accountability court programs (records will still be maintained and accessible). There is also language addressing education initiatives – in part, it allows the Department of Corrections and Department of Juvenile Justice to contract with private entities to operate charter schools for incarcerated juveniles. See O.C.G.A. § 20-2-2084.1. It also addresses school discipline and requires the State Board of Education to establish minimum qualifications and standards for individuals who conduct disciplinary hearings and local boards of education are to develop a system of progressive discipline for their students who may be accused of disrupting the operation of a public school prior to actually filing a complaint with the juvenile court. These remedies must be exhausted before a complaint may be brought. There are also provisions permitting the return of driver's licenses when individuals have had their licenses suspended because of a criminal conviction. See O.C.G.A. § 40-5-9. It strengthens the requirements for first offender status so that a defendant is told of this option and can seek retroactive application of the status. See changes in O.C.G.A. § 42-8-60. It also provides for a certificate of sentence completion and enacts other reforms relating to diversion courts. There are also allowances in O.C.G.A. § 42-9-45(b) for inmates who are serving sentences of at least six years for certain drug-related offenses, or under the repeat offender statute for non-violent felonies, who meet the qualifications of the statute to be eligible for parole consideration. Language was also added at O.C.G.A. § 49-4-22 so that those individuals who have a felony drug conviction are permitted to apply for SNAP benefits (Supplemental Nutrition Assistance Program) upon their release from imprisonment. The State Board of Juvenile Justice is to oversee the transfer of supervision of individuals who are 17 years of age from the Department of Juvenile Justice to the Department of Community Supervision through the adoption of rules and regulations in O.C.G.A. § 49-4A-2(b)(6). Governor Deal signed SB 367 as **Act Number 460** on April 27, 2016. The language in SB 367 takes effect on July 1, 2016 except for the section addressing pardons and paroles and that became effective on approval by the Governor and is applied retroactively to those sentences imposed before the effective date of the Act.

Cobb County

HB 1008, by Rep. John Carson (R-Marietta), addresses salaries of the chief deputy clerk and clerk of the State Court of Cobb County in addition to the salary of the chief assistant solicitor of Cobb County by providing salary adjustments and ranges for these positions. It further provides that the solicitor-general has the authority to appoint two assistant solicitors for each

judge of Division I and Division II of the State Court of Cobb County and the same number of additional assistant solicitors as the number of full-time magistrates of the Magistrate Court of Cobb County, plus four additional assistant solicitors – one of whom shall be the chief assistant solicitor, two of whom may be deputy assistant solicitors, and one of whom may serve as an intake attorney at the Cobb County Adult Detention Center. Compensation for the assistant solicitors is to be determined by the solicitor-general. It also prohibits that these assistant solicitors can engage in the private practice of law while engaged in these positions. Governor Deal approved this legislation as **Act Number 497** on April 28, 2016. This Act takes effect on July 1, 2016.

HB 1009, by Rep. John Carson (R-Marietta), addresses the salary of the tax collector and tax receiver and consolidates the offices of the tax collector and tax receiver into the office of the tax commissioner of Cobb County.

- The tax commissioner is to receive a minimum salary as provided in O.C.G.A. § 48-5-183 and a supplement in the amount of $13,899.38, paid in equal monthly installments from county funds.
- The tax commissioner is allowed one chief clerk paid in equal monthly installments from the funds of the county treasury for a total annual salary of $109,692.54.
- A candidate for the office of tax commissioner is to certify to the judge of the Probate Court of Cobb County the name of the individual that the candidate intends to have serve as chief clerk if he or she is elected. In the event of death/removal from office of the chief clerk, the tax commissioner will have 30 days from the death/removal to certify to the judge of the Probate Court of Cobb County the individual to be appointed as chief clerk.
- It creates the position of "executive secretary to the tax commissioner" to be appointed by the tax commissioner and that individual is to have an annual salary of $60,348.73.
- It creates the position of administrative specialist in the office of tax commissioner who will also be appointed by the tax commissioner and that individual will have an annual salary of $60,278.05.

Governor Deal signed HB 1009 as **Act Number 498** on April 28, 2016. This legislation takes effect on July 1, 2016.

HB 1010, by Rep. John Carson (R-Marietta), addresses the Board of Commissioners of Cobb County and pay for such Commissioners:

- Districts 1 and 4 are to be paid as their entire compensation for services the sum of $45,175.86 per annum (paid monthly).
- Districts 2 and 3 are eligible to be paid as their entire compensation the sum of $45,418.81 per annum.
- The Chair is eligible to be paid as his or her entire compensation the sum of $131,188.22. This position is to be considered and compensated as a full-time position – the Chair, though, is permitted to devote no more than 15 hours per week to a

business or employment interest unrelated to the business of the board of commissioners.

- The commissioners are to be reimbursed for "reasonable expenses" in carrying out their duties:
  - Mileage for the use of a private automobile while conducting county business;
  - Secretarial services, if required, over and above the services normally provided by the county; and
  - Travel and lodging expenses and fees incurred in conjunction with training seminars, conventions, or official county business conducted outside of Cobb County.

Governor Deal signed this bill as **Act Number 499** on April 28, 2016. The provisions of HB 1010 take effect on July 1, 2016.

HB 1011, by Rep. John Carson (R-Marietta), addresses the compensation for the clerk of the superior court, sheriff, and judge of the Probate Court of Cobb County. It establishes:

- The annual Salary for the sheriff is set at $144,438.57.
  - It provides that the sheriff may have one chief deputy whose annual salary is $134,795.27 (that individual's qualifications for office are to be the same as the sheriff and the individual serves at the pleasure of the sheriff).
  - At the time, the sheriff qualifies for office, he or she must designate and certify to the judge of the Probate Court the name of the individual who will be chief deputy sheriff and should the office of sheriff become vacant by death, resignation or otherwise, then the vacancy is to be filled until the next general election by the chief deputy sheriff.
  - It allows the sheriff to appoint additional deputes as shall be approved from time to time by the governing authority of Cobb County and those salaries are to be set by the governing authority but not be less than $4,880.00 per annum per each additional deputy approved.
  - It allows the sheriff to employ clerical help as necessary to perform properly the functions and duties of the office with compensation approved by the governing authority.
- It creates the office of the assistant chief deputy of Cobb County, appointed by the sheriff, and requires this individual to have at least a high school education or its equivalent and be a graduate of either the Federal Bureau of Investigation's National Academy for Peace Officers or possess ten years of actual experience as a peace officer or be a graduate of a law school accredited by the Georgia Bar Association or be a graduate of the Southern Police Institute School of Police Management and Administration or have a master's degree from an accredited college or university. The assistant chief deputy is to be paid $122,307.60 per year.
- It creates the position of executive assistant to the sheriff and establishes that person's salary at $73,487.83 and permits the sheriff to establish the qualifications, education, and experience necessary for the position.

Governor Deal approved this bill as **Act Number 500** on April 28, 2016. The provisions of HB 1011 take effect on July 1, 2016.

HB 1012, by Rep. John Carson (R-Marietta), amends the compensation of the clerk of the superior court, the sheriff and the judge of the Probate Court of Cobb County from the fee system to the salary system. It establishes that:

- The clerk of the superior court is to receive an annual salary of $131,947.88.
- Permits the clerk of the superior court to have a deputy clerk whose annual salary is to be $104,290.29 and requires that the candidate for the office of the clerk of the superior court, on the date of their qualification for office, certify to the judge of the Probate Court of Cobb county the name of the individual he or she will appoint as deputy clerk if he or she is elected. In the event of the death or removal from office of said deputy clerk, the clerk of the superior court is to have 30 days from the date of death or removal from office to certify to the Probate Court of Cobb County the name of the new deputy clerk to be appointed.
- It also permits the clerk of the Superior Court of Cobb County to employ the clerical help necessary to perform the functions and duties of the office. Those salaries will be approved by the governing authority of Cobb County.
- The clerk of the Superior Court is allowed an executive assistant and an executive secretary who will both serve at the pleasure of the clerk. Those positions respectively will be paid annually $64,200.92 and $59,262.38.

Governor Deal approved this legislation as **Act Number 501** on April 28, 2016. The Act takes effect on July 1, 2016.

HB 1033, by Rep. Stacey Evans (D-Smyrna), changes the compensation of the clerk of the superior court, the sheriff, and the judge of the Probate Court of Cobb County from a fee system to a salary system. It establishes that:

- The judge of the Probate Court of Cobb County is to receive an annual salary of $137,046.67.
- It authorizes the judge of the Probate Court of Cobb County to employ clerical help and establishes the clerk of the probate court is to be compensated annually with $91,138.62.
- The judge of the Probate Court is authorized to employ two deputy clerks who are to receive an annual salary determined by the governing authority of Cobb County and additional employees hired, and their salaries, are to be approved by the governing authority of Cobb County.

Governor Deal signed the provisions of HB 1033 as **Act Number 556** on May 3, 2016; it takes effect on July 1, 2016.

Commerce and Fair Trade

HB 697, by Rep. Tom Kirby (R-Loganville), requires solicitors to receive from consumers affirmative assent to continued receipt of goods, wares or merchandise following the expiration of a "trial period" during which similar goods, wares, or merchandise were provided free of charge. The recipient of those items is required to provide affirmative oral, written or electronic assent to be relieved of payment after such trial period. This change is added at O.C.G.A. § 10-1-50(c). If there is no assent, receipt of such items are to be deemed an "unconditional gift to the recipient" who may then use or dispose of such goods, wares or merchandise, unless the goods, wares, or merchandise were delivered to the recipient as a result of a bona fide mistake – in that case, the recipient may do as he or she sees fit without any obligation to the sender. A violation will be considered a violation of Part 2 of Article 15 of Chapter 1, the "Fair Business Practices Act of 1975." Governor Deal signed this bill as **Act Number 434** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 727, by Rep. Paul Battles (R-Cartersville), updates the 2015 law passed on the sales of consumer fireworks. It also has updates and expanded functions and powers of the Georgia Firefighter Standards and Training Council (this was language from HB 970 by Rep. Eddie Lumsden (R-Armuchee)) as well as revised qualifications for firefighters. At O.C.G.A. § 25-4-2 it adds a definition for "recruit," which means a prospective firefighter who has not yet been certified or registered by the Council as having met the requirements of O.C.G.A. § 25-4-8 and the rules and regulations to be a firefighter as provided for by the Council. It outlines qualifications of firefighters in O.C.G.A. § 25-4-8 (including employees, volunteers or private contractors of a fire department operating in Georgia). Other changes include:

- Updated definitions in O.C.G.A. § 25-10-1(a)
  - 'Consumer fireworks retail sales facility' has the same meaning as provided by NFPA 1124; *provided, however, that such term shall not include a tent, canopy, or membrane structure*.
  - *'Electric plant' has the same meaning as provided for in Code Section 46-3A-1*.
  - *'Nonprofit group'* means any entity exempt from taxation under Section 510(c)(3) of the Internal Revenue Code of 1986, *any entity incorporated under Chapter 3 of Title 14, 'Georgia Nonprofit Corporation code,' or a sponsored organization of a public or private elementary or secondary school in this state*.
  - It eliminates the definition for 'retail chain' in current law.
  - It amends the definition for 'store' so that it has the same meaning as provided for by NFPA 1124; *provided, however, that such term shall only include such buildings with at least 4,000 square feet of retail display space and wherefrom: (A) no more than 25 percent of such retail display space is used for consumer fireworks and items or products as provided for under paragraph (2) of subsection (b) of this Code Section; and (B) other items or products which are not consumer fireworks or items or products as provided for under paragraph (2) of subsection (b) of this Code Section are sold; and provided, further, that such term means a person, firm, corporation, association, or partnership with*

more than one mercantile location, where all such mercantile locations are collectively known to the public by the same name or share central management.

- It adds definitions for the terms, 'waste-water treatment plant' and 'water treatment plant.'

· It changes where firework activities are prohibited in O.C.G.A. § 25-10-2, changing "explode" and "exploded" to "ignite" or "ignited."

- Fireworks, consumer fireworks or any items defined in O.C.G.A. § 25-10-1(b)(2) are unlawful to be used within the right of way of a public road, street, highway or railroad in Georgia.
- It changes the hours in which fireworks may be ignited and now permits them to be used:
  - § On any day beginning at the time of 10:00 AM and up to and including the ending time of 9:00 PM (now it is midnight).
  - § They are permitted after 9:00 PM and up to and including the time of 11:59 PM *if such use or ignition is lawful pursuant to any noise ordinance of the county or municipal corporation of the location in which such use or ignition occurs, except otherwise provided…however, that a county or municipal corporation may additionally require the issuance of a special use permit…for use or ignition*.
  - § Extended hours are permitted on January 1, July 3, July 4, and December 31 of each year after the time of 9:00 PM and up to and including the time of 11:59 PM and on January 1 beginning at the time of 12:00 Midnight and up to and including the ending time of 1:00 AM

· It also adds additional language making it unlawful to ignite or cause to be ignited consumer fireworks within 100 yards of an electric plant; water treatment plant; waste-water treatment plant; a facility engaged in the retail sale of gasoline or other flammable or combustible liquids or gases where the volume stored is in excess of 500 gallons for the purpose of retail sale; a facility engaged in the production, refining, processing, or blending any flammable or combustible liquids or gases for retail purposes; any public or private electric substation; or a jail or prison. Further, it is also unlawful for such to be used (1) within 100 yards of the boundaries of any public use air facility or any public use landing area or platform marked/designed for landing use by helicopters; (2) within any park, historic site, recreational area or other property which is owned/operated or under custody/control of a governing authority of a county or municipal corporation (except with a special use permit); (3) within any park, historic site, recreational area or other property owned or operated or under the custody and control of the State (except by rules and regulations of the agency or department having control of that property); (4) within 100 yards of a hospital, nursing home, or other healthcare facility regulated under Chapter 7 of Title 31 – unless that owner/operator grants permission for such use; and (5) while under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is less safe or unlawful for such person to ignite consumer fireworks.

· It prohibits ignition of fireworks in instances when the Governor declares a drought.

- It adds a new Code Section at O.C.G.A. § 25-10-2.1, making it unlawful for a person to ignite consumer fireworks while under the influence of alcohol or drugs. Persons convicted of such will be guilty of misdemeanors.
- It amends O.C.G.A. § 25-10-5.1, governing the requirements for a license to distribute the fireworks. It requires that the application forms be on forms prescribed and promulgated by the Safety Fire Commissioner. It further requires the applicant seeking a license to have the property where the sales of the fireworks are to be made under "such person's, firm's, corporation's, association's, or partnership's ownership or legal control through a lease, rental agreement, licensing agreement or other contractual instrument at the time of the application's filing."
    - It changes the initial license fee for a distributor from a permanent consumer fireworks retail sales facility from $5,000.00 per location to $1,500.00 per location; provided, however, that the initial license fee is $5,000.00 per distributor that is not licensed pursuant to this subsection (b)(1) prior to July 1, 2016.
    - It permits in (b)(2) that the Safety Fire Commissioner is to determine whether an applicant has met requirements for a license within 30 days of the submission of the application (now it is 15 days) for initial or annual license (provided, however, that if a license will expire prior to the expiration of such 30 days and no such determination has been made, then the expiration date for such license is to be extended until the date of such determination by the Safety Fire Commissioner but no more than 30 days).
    - It changes (c) addressing the sales of consumer fireworks from a temporary consumer fireworks retail sales stand. At (3), it states that "for at least one of the temporary consumer fireworks retail sales stands provided for under O.C.G.A. § 25-10-2(b)(6)(B), a nonprofit group benefitting from the sale of consumer fireworks from such temporary consumer fireworks retail sales stand shall directly participate in operating such stand. Further, in (5), it states that a distributor licensed under this subsection is required to submit a list of names and addresses, including the counties, of each temporary consumer fireworks retail sales stand at which such distributor has consumer fireworks offered for sale to the Safety Fire commissioner – that list is to be submitted not less than 30 days prior to first having a temporary consumer fireworks retail sales stand at which such distributor has consumer fireworks offered for sale and not less than 30 days prior to having such distributor's consumer fireworks offered for sale at a location not previously included on such list. It also addresses revocation or suspension of a license under (b) or (d) which operates as a revocation or suspension of a distributor's license.
    - It amends (d) so that the initial license fee for a distributor selling consumer fireworks from a store is not $5,000.00 but $1,500.00 in addition to $250.00 per store location. It further changes license fees once a location has been initially licensed, reducing their annual license fees.
- It amends O.C.G.A. § 25-10-6 at (a) to provide that not only the State Fire Marshal can enforce the provisions of Chapter 10 of Title 25 but also any law enforcement officer or agency of Georgia or political subdivision may enforce provisions relating to using or

igniting or causing to be ignited consumer fireworks. At (b), it adds that any property declared as contraband is to be forfeited pursuant to procedures in Chapter 16 of Title 9.

- It amends penalties for illegal sales of fireworks in O.C.G.A. § 25-10-9. It permits the Safety Fire Commissioner the authority to set a monetary penalty of up to $2,500.00 for each and every act in violation of Chapter 10 of Title 25 and the Safety Fire Commissioner is to have the authority to subject any person, firm, corporation, association, or partnership that knowingly sells consumer fireworks from a tent, canopy, or membrane structure to a monetary penalty of up to $5,000.00 and, if any such person, firm, corporation, association, or partnership is a distributor, then a license revocation is to occur for not more than two years. Each sales transaction is still considered a separate offense.
- It adds a new Code Section at O.C.G.A. § 25-10-11 permitting the Safety Fire Commissioner to issue a cease and desist order for violations. Noncompliance by individuals may cause the revocation of licenses for not less than six months and not to exceed five years. A notice of an opportunity for a hearing is to accompany an order to cease and desist.
- Another new Code Section is added at O.C.G.A. § 25-10-12, adding additional revocation or suspension of licenses if the licensee or applicant has: (1) failed to comply with requirements of Chapter 10 or rules and regulations; (2) failed to maintain minimum insurance coverage; (3) made a material misstatement/misrepresentation or committed a fraud in obtaining or attempting to obtain a license; or (4) failed to notify the Safety Fire Commissioner in writing within 30 days after a change of residence, principal business address or name.
- It also changes O.C.G.A. § 36-60-24 so as to permit not only counties, but also municipal authorities, the authority to further regulate the sale of consumer fireworks from temporary consumer fireworks retail stands until January 31, 2018.

HB 727 was signed by Governor Deal as **Act Number 330** on April 26, 2016. These changes to the State's fireworks' laws took effect upon signature of the Governor.

HB 871, by Rep. Robert Dickey (R-Musella), amends O.C.G.A. § 10-1-791(a) regarding the consumer fees which are collected on the completion of the sale of or an execution of a lease of a new motor vehicle. Currently, $3.00 is collected on these transactions and paid by the dealers quarterly to the Office of Planning and Budget for deposit in the new motor vehicle arbitration account created within the State Treasury to implement the "Georgia Lemon Law." This change makes the fees paid quarterly to the Department of Law rather than the Office of Planning and Budget. Governor Deal signed this legislation as **Act Number 464** on April 27, 2016. The Act takes effect on July 1, 2016.

HB 899, by Rep. Jay Powell (R-Camilla), amends Chapters 13 and 13A of Title 10 and Chapter 11 of Title 48 addressing the Master Tobacco Settlement Agreement which tobacco companies entered into in 1998 and the non-settling tobacco companies which now pay into an escrow account. The legislation provides oversight of the payments to the escrow account so

as to not jeopardize the Master Tobacco Settlement payments to the State (which are approximately $130 million annually). Specific changes include:

- Changes to the definition section at O.C.G.A. § 10-13-2 – adding a definition for the term 'importer' and changing current definitions for terms 'qualified escrow fund' and 'units sold.'
- Requires in O.C.G.A. § 10-13-3(2)(A) that funds be placed into a qualified escrow fund on a quarterly basis, no later than 30 days after the end of each calendar quarter in which sales are made. It also requires in O.C.G.A. § 10-13-3(2)(D) that an importer is to be "jointly and severally liable for escrow deposits due from a nonparticipating manufacturer with respect to any nonparticipating manufacturer cigarettes that it imported and which were then sold in this state."
- Amends O.C.G.A. § 10-13A-1 concerning definitions addressing the enforcement and safeguarding of the Master Settlement Agreement. It adds a definition for the terms, 'dealer,' 'importer,' 'packager,' 'person,' 'purchase,' 'qualified escrow fund,' 'sale or sell,' and 'stamping agent,' and it amends current definitions for terms 'directory' and 'units sold.' It also strikes current term defined as 'qualified escrow fund.'
- Requires in O.C.G.A. § 10-13A-3 that every tobacco product manufacturer whose cigarettes are sold in Georgia, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, are to execute and deliver in the manner prescribed by the Attorney General a certification to the commissioner and Attorney General, no later than April 30 of each year, certifying that, as of the date of the certification, such tobacco product manufacturer either is a participating manufacturer or is in full compliance with Chapter 13 of Title 10, including all annual deposits as required in O.C.G.A. § 10-13-3 – in addition, this tobacco manufacturer in (b), is also to certify that "(1) such manufacturer or its importer holds a valid permit under 26 U.S.C. Section 5713; and (2) such manufacturer is in compliance with all reporting and registration requirements of 15 U.S.C. Sections 376 and 376a." It further amends (d) concerning the "nonparticipating manufacturers" and its requirement of a certification of a list of all of its brand families and the number of units sold for each brand family. A new requirement included in the certification for the "nonparticipating manufacturers" is that they consent to be sued in the courts of Georgia to enforce Chapter 13A, Chapter 13 of Title 10 and Title 48 and any regulations promulgated pursuant to these provisions; or bring a release claim as defined in paragraph (8) of O.C.G.A. § 13-13-2; that the entity has posted the appropriate bond required; and if located outside of the United States, then provide a declaration from each of its importers into the United States of any of its brand families to be sold in Georgia.
- Outlines in a new Code Section at O.C.G.A. § 10-13A-7 the bond requirements for a nonparticipating manufacturer (which will be at a minimum of $50,000).
- Changes in O.C.G.A. § 10-13A-8 the requirements for distributors and the information those entities are to report to the Attorney General and what information may be disclosed. It does require in (c) that tobacco sales data, provided by another state, a tobacco product manufacturer or other person or entity to a date clearing-house pursuant to the NPM Adjustment Settlement Agreement and which is also provided to

the Attorney General or commissioner pursuant to that agreement, be treated as confidential tax information.

- Adds in O.C.G.A. §10-13A-9(b) that dealer or a distributor licenses may be terminated, suspended, or be subjected to other remedy if a distributor fails to report or if the distributor files incomplete or inaccurate information.

HB 899 was signed by Governor Deal as **Act Number 472** on April 27, 2016. The changes take effect on July 1, 2016.

SB 369, by Sen. Jeff Mullis (R-Chickamauga), adds a new Code Section at O.C.G.A. § 32-9-13, to the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965' by granting the City of Atlanta the authority to levy a retail sales and use tax of up to .50 percent; any tax imposed, if less than .50 percent, is to be in an increment of .05 percent intervals. This tax is not to count towards any local sales tax limitation. Taxes imposed are to run concurrently as to duration of the levy with the one (1) percent tax currently levied pursuant to the "Metropolitan Atlanta Rapid Transit Authority Act of 1965" approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended. A referendum is to be called and the authority is to submit to the city a preliminary list of new rapid transit projects which may be funded by the proceeds of this additional tax. A required majority of qualified voters of the city must approve the additional tax. A second part of this legislation addresses "special district transportation taxes" in O.C.G.A. § 48-8-260 et seq. It limits at O.C.G.A. § 48-8-269.7 et seq. provisions of the special district taxation and requires the submission of a ballot question and voter approval. Governor Deal signed this legislation as **Act Number 336** on April 26, 2016. This Act took effect upon signature of the Governor.

Corporations

SB 128, by Sen. John Kennedy (R-Macon), is an update to Article 8 of Chapter 2 of Title 14, concerning directors and officers, to enact reforms consistent with the Model Act. Among changes include:

- A revision to O.C.G.A. § 14-2-801 concerning the requirement for and duties of boards of directors – each corporation is required to have such a board of directors except for a foreign limited partnership.
- A change at O.C.G.A. § 14-2-803(b), regarding the number and election of directors, so that the number of directors may be increased or decreased from time to time by amendment to, or as provided in, the articles of incorporation or the bylaws.
- An action taken without a meeting in O.C.G.A. § 14-2-821 so that except to the extent the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by directors may be taken without a meeting *if* each director signs a consent describing the action to be taken or ratified and delivers it to the corporation. It further outlines how a director's consent may be withdrawn by a revocation in (b) and states that consent may specify a time at which the action taken is to be effective in (c).

- An amendment to laws relating to committees in O.C.G.A. § 14-2-825, at subsection (f), permitting the board of directors to appoint one or more directors as "alternate members" of any committee to replace any absent or disqualified member during the member's absence or disqualification. "Unless the articles or bylaws or the board takes action creating the committee or appointing one or more directors as alternate members provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, unanimously, may appoint another director to act in place of the absent or disqualified member."
- An alteration of current law regarding resignation and removal of officers at O.C.G.A. § 14-2-843(b) so that an officer may be removed at any time with or without cause by (1) the board of directors; (2) the officer who appointed such officer, unless the bylaws or the board of directors provide otherwise; or (3) any other officer if authorized by the bylaws or the board of directors.
- Creation of a new Part 7 in Article 8 of Chapter 2 of Title 14, which addresses business opportunities of a director or officer and the action which may be taken.
- An addition in O.C.G.A. § 14-2-140 of new definitions for terms of 'foreign limited liability company' and 'limited liability company' (amending who may serve as registered agent, service of process, notice or demand on the Secretary of State when he or she is the agent for service of process, and other issues) and which are also added in the "Georgia Revised Uniform Limited Partnership Act."

Governor Deal signed SB 128 as **Act Number 364** on April 26, 2016. Changes in SB 128 take effect on July 1, 2016.

Crimes, Criminal Procedure and Weapons

HB 421, by Rep. Chad Nimmer (R-Blackshear), adds at O.C.G.A. § 47-2-221(b)(1) that community supervision officers, who are employed by the Department of Community Supervision, (in addition to conservation rangers employed by the Department of Natural Resources, parole officers employed by State Board of Pardons and Paroles, and any probation officers employed by the Department of Corrections) are eligible to obtain disability allowances if they are contributing members of the retirement system and upon becoming permanently disabled due to an act of external violence or injury incurred in the line of law enforcement duty becomes eligible for disability retirement allowances – there is a caveat that a medical examination is required and a certification be made by the medical board that the member is permanently disabled and allowed monthly allowances computed based on the member's life expectancy. This language was a clean up of the legislation passed in 2015 creating the Department of Community Supervision. Governor Deal signed this legislation as **Act Number 400** on April 26, 2016 which becomes effective on July 1, 2016. [Note there was a proviso included in this legislation that it only would take effect if it is concurrently funded as provided in Chapter 20 of Title 47 – otherwise, it does not take effect and is to be automatically repealed on July 1, 2016. However, Conferees addressed this issue in HB 751 (the State's funding plan for FY 2017), providing for this funding, and therefore Act Number 400 takes effect on July 1, 2016.]

HB 770, by Rep. Chuck Efstration (R-Dacula), revises O.C.G.A. § 16-5-46, regarding crimes of trafficking of persons for labor or sexual servitude, and adds penalties for individuals convicted of trafficking individuals with developmental disabilities. It also adds language permitting undercover operatives or law enforcement officers to be involved in sting operations without such activities constituting such crime. Governor Deal signed this measure into law as **Act Number 441** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 779, by Rep. Kevin Tanner (R-Dawsonville), addresses the use of drones in O.C.G.A. § 16-11-210, *et seq.*, regulating unmanned aircraft systems and images. The legislation also prohibits drones from being used when equipped with weapons, except under certain conditions (e.g., used by the federal government or United States Military operations). At O.C.G.A. § 16-11-213, it preempts any ordinance, resolution, regulation, or policy of any county, municipality, or other political subdivision of Georgia regulating the testing or operation of unmanned aircraft systems, rendering those null, void and of no force and effect except in certain instances (such as if the ordinance was adopted on or before April 1, 2016; the ordinance enforces Federal Aviation Restrictions; or adopt any ordinance that provides for or prohibits the launch or intentional landing of an unmanned aircraft system or on its public property except with respect to the operation of an unmanned aircraft system for commercial purposes.) The legislation creates at O.C.G.A. § 6-2-13 the Georgia Unmanned Vehicle Systems Commission which would be abolished on December 31, 2021. Governor Deal, however, **vetoed** this initiative on May 3, 2016 as **Veto Number 8**. In part, his veto message stated that he believes 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." He further urged "local governments to refrain from enacting ordinances that would regulate drone activity until the FAA has acted as well."

HB 792, by Rep. Buzz Brockway (R-Lawrenceville), is the "taser" bill and was engrossed in the Senate prior to being considered on the Senate Floor. The legislation adds in O.C.G.A. § 16-11-127.1(c) at paragraph (19) the authorizing of the use of electroshock weapons by "any person who is 18 years of age or older or currently enrolled in classes on the campus in question and carrying, possessing, or having under such person's control an electroshock weapon while in or on any building or real property owned by or leased to such public technical school, vocational school, college or university or other public institution of postsecondary education; provided, however, that, if such person makes use of such electroshock weapon, such use shall be in defense of self or others." It defines "electroshock weapon" as "any commercially available device that is powered by electrical charging units and designed exclusively to be capable of incapacitating a person by electrical charge, including, but not limited to, a stun gun or taser as defined in subsection (a) of Code Section 16-11-106." Governor Deal signed this legislation as **Act Number 616** on May 3, 2016. The legislation takes effect on July 1, 2016.

HB 859, by Rep. Rick Jasperse (R-Jasper), is known as the "campus carry" legislation. It authorizes the carrying and possession of handguns by weapons carry license holders at postsecondary institutions in O.C.G.A. § 16-11-127.1(c)(19). It specifically states that "any license holder when he or she is in any building or on real property owned by or leased to any public technical school, vocational school, college, or university, or other public institution of postsecondary education; provided, however, that such exception shall (i) not apply to buildings or property used for athletic sporting events or student housing, including, but not limited to fraternity and sorority houses; (ii) only apply to the carrying of handguns which a licensee is licensed to carry pursuant to (h) of Code Section 16-11-126 and pursuant to Code Section 16-11-129; and (iii) only apply to the carrying of handguns which are concealed." Concealed means that it will not actively "solicit the attention of others and prominently, openly, and intentionally displayed only for purposes of defense of self or others." It also means that the gun must be carried on one's person and be covered by an article of clothing or within a bag of a non-descript nature. Governor Deal **vetoed** this initiative on May 3, 2016 as **Veto Number 9**. In part, Governor Deal's veto message stated, "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…"" His message went further to note the minutes of the October 4, 1824 meeting from the Board of Visitors created by the University of Virginia – those present at that meeting included Thomas Jefferson and James Madison. Under the rules of conduct for the University of Virginia, 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…"" Governor Deal also addressed the Technical College System of Georgia and University System of Georgia – noting that he was issuing an executive order "requesting that they submit a report to me, the Lieutenant Governor and Speaker of the House by August 1, 2016, as to the security measures that each college within their respective systems has in place." He also called upon cities and counties and local law enforcement to review and improve, if necessary, security measures for these schools. [The full text of his Executive Order may be found here: http://gov.georgia.gov/executive-orders/2016 .]

HB 874, by Rep. Bert Reeves (R-Marietta), updates Georgia's laws on prosecution of street gang terrorism. It improves the ability to prosecute street gang terrorism in O.C.G.A. § 16-11-37. It addresses the use of disposition and evidence in O.C.G.A. § 15-11-703 and clarifies that "except as provided in O.C.G.A. § 24-6-609(d), the disposition of a child and evidence adduced in a hearing in the juvenile court shall not be used against such child in any proceeding in any court other than as provided in Code Section 16-15-9 or 24-4-418 or for a proceeding for delinquency or a child in need of services, whether before or after reaching 18 years of age, except in the establishment of conditions of bail, plea negotiations, and sentencing in criminal offences; and, in such excepted cases, such records of dispositions and evidence shall be available to prosecuting attorneys, superior or state court judges, and the accused and may be used in the same manner as adult records. Whenever such record of disposition is filed in a superior or state court or admitted into evidence in a superior or state

court proceeding, it shall be filed under seal." It amends O.C.G.A. § 16-15-9, concerning the commission of offense admissible as evidence of existence of criminal street gang and criminal gang activity. It also adds a new Code Section concerning relevant evidence and its limits at O.C.G.A. § 24-4-418. It also makes it a felony offense for an inmate to commit or attempt to commit a violation with a prohibited item (e.g., cell phone). Section 7 of the legislation amends O.C.G.A. § 42-2-8(c) authorizing the Commissioner for the Department of Corrections, or his or her designated chief of staff, to issue a warrant for an offender who has escaped from the custody of the Department. This change was added on the Senate Floor. Governor Deal signed this bill as **Act Number 606** on May 3, 2016. The legislation became effective upon approval of the Governor; the Commissioner's ability to issue a warrant for an offender's arrest will only apply to offenses occurring on or after July 1, 2016.

HB 941, by Rep. Rich Golick (R-Smyrna), addresses grand jury investigations when there are police-involved shootings resulting in bodily injuries or deaths. The Senate Judiciary Non-Civil Committee had considered a special prosecutor as the appropriate individual to oversee these actions; however, that language was removed as the legislation moved through the Senate. In the new process, no police officer will be permitted to be in the grand jury proceedings *except* when he or she is to give testimony. Specifically, the legislation amends O.C.G.A. § 15-12-71(b) and adds at (5) a definition for the term, 'serious bodily injury,' and requires that the grand jury, "whenever deemed necessary by eight or more of its members or at the request of the district attorney," conduct a "review of any incident in which a peace officer's use of deadly force resulted in death or serious bodily injury to another." Further, "except when requested by the district attorney, such review shall only be conducted after the investigative report of the incident has been completed and submitted to the district attorney." There are time frames within which the district attorney is to commence a review with the grand jury and when evidence is to be heard. It does require that the chief executive officer of the law enforcement agency and the peace officer to be notified of when the grand jury is to begin hearing evidence but there is no requirement for the peace officer to make a presentation to the grand jury unless he or she is requested to do so. In the new language, it now requires the hearing before the grand jury to be recorded by a court reporter. In (e) of this Code Section, it requires, if the grand jury does not request that the district attorney create a bill of indictment or special presentment, that it prepare a report or issue a general presentment (including a summary of the evidence) based upon its inspection – that report or presentment will be subject to publication. At (f), it requires that if the grand jury requests that the district attorney create a bill of indictment or special presentment against the peace officer, then the transcript of the testimony of witnesses who testified during the review along with any evidence not be disclosed except as provided in O.C.G.A. § 15-12-72 and in compliance with Article 1 of Chapter 16 of Title 17. If the bill of indictment or special presentment is to be presented to another grand jury, then the district attorney is required to transfer the transcripts and evidence to the grand jury considering that bill of indictment or special presentment. The legislation incorporates amendments at O.C.G.A. § 15-12-74(b) concerning grand jury presentment of offenses, addressing if a true bill is returned by the grand jury and its publication in open court. Further, it adds language concerning requirements of a court reporter at O.C.G.A. § 15-12-83 and the oath to be taken by the court reporter before grand jury proceedings. It adds in O.C.G.A. § 15-12-100(a) that a chief judge of the superior court

for any county may also, on the motion or petition of the district attorney (in addition to his or her own motion or on petition of any elected public official of the county or municipality lying within that county) to impanel a special grand jury for the purpose of investigation of an alleged violation of the laws. It also amends pretrial proceedings in O.C.G.A. § 17-7-52 now requiring that a notice and copy of the proposed bill of indictment or special presentment be provided to the peace officer not less than 20 days prior to the date that the grand jury will commence hearing evidence and outlines the contents of such notice. It adds, in (d), that if the officer requests to testify then the officer is to be permitted to testify at the conclusion of the presentation of the State's case-in-chief and that he or she is only to be present in the grand jury room while he or she is testifying. Governor Deal signed this legislation into law as **Act Number 350** on April 26, 2016. The changes in this legislation take effect on July 1, 2016.

HB 1060, by Rep. Rick Jasperse (R-Jasper), is to be known as the "Georgia Firearms Industry Nondiscrimination Act" and is created in a new Part 7 of Chapter 1 of Title 10. At O.C.G.A. § 10-1-439.2, it prohibits discriminatory practice by any person who refuses to provide financial services of any kind to; to refrain from continuing to provide existing financial services to; to terminate existing financial services with; or to otherwise discriminate in the provision of financial services against a person or trade association solely because such person or trade association is engaged in the lawful commerce of firearms or ammunition products and is licensed pursuant to Chapter 44 of Title 18 of the United States Code or is a trade association. The Attorney General is given powers to investigate and/or bring actions for violations. However, the provisions of this do not apply to any bank, trust company, credit union or merchant acquirer limited purpose bank that is chartered under the laws of this State or any other state to the extent that federal law precludes or preempts or has been determined to preclude or preempt the application of the provisions of this part to any federally chartered bank, trust company, credit union or merchant acquirer limited purpose bank. It also makes revisions in O.C.G.A. § 16-11-126(e) and (f) – addressing weapons carry licenses and allows individuals who are licensed in another state to carry a weapon in Georgia for 90 days after he or she becomes a resident provided that the person is to carry that weapon in compliance with Georgia laws. It allows individuals with a valid hunting or fishing license on his or her person or any person not required by law to have a hunting or fishing license who is otherwise engaged in legal hunting, fishing or sport shooting on recreational or wildlife management areas owned by the State to have or carry on his or her person a knife without a valid weapons carry license while engaging in such hunting, fishing or sport shooting. There are other revisions included – such as the carrying of weapons in unauthorized locations in O.C.G.A. § 16-11-127(e)(2) dealing with license holders who leave a place of worship while carrying a weapon or long gun. It amends the law concerning the carrying of weapons within school safety zones, at school functions or on a bus or other transportation furnished by a school in O.C.G.A. § 16-11-127.1(c)(5), noting that the Code Section is not to apply to persons who are provided for under Code Section 16-11-130. Gun safety information is addressed, permitting the judge of the probate court to give applicants for a weapons' carry license or renewal application information about gun safety. It also permits additional retired law enforcement officers who have powers of arrest under the laws of any state or the United States to be able to carry a weapon. Governor Deal also **vetoed** this gun bill on May 3, 2016 as **Veto Number 12**. Governor Deal raised "serious concerns relating to the carrying of a weapon or long gun

into a place of worship." Before the effective date of HB 60, the legislation on weapons passed in 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…"" Governor Deal made it clear when the language of HB 60 was being crafted that he would not sign a piece of legislation which would require "every house of worship to post a sign saying that weapons were not permitted." That was a deal he made with the bill's authors; this legislation "breaches the compromise" and 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" such.

SB 193, by Sen. Charlie Bethel (R-Dalton), amends O.C.G.A. § 16-5-23.1(f), addressing penalty provisions concerning family violence battery. In particular, it addresses the offense of battery committed between household members – a first conviction of family violence batterer is a misdemeanor; provided that if the defendant has previously been convicted of a forcible felony committed between household members (in Georgia or another state), then such would constitute a forcible felony committed between household members. Thus, such crime will be a felony and guilty by imprisonment for not less than one and not more than five years. Governor Deal signed this legislation into law as **Act Number 518** on May 3, 2016. This Act takes effect July 1, 2016.

SB 263, by Sen. Bruce Thompson (R-White), adds a new Code Section at O.C.G.A. § 35-1-20, concerning law enforcement officers and agencies. It provides that the governing authority of each municipality and county and each local board of education which employs sworn police officers, certified by the Georgia Peace Officer Standards and Training Council, may adopt policies so that these sworn officers, upon their retirement from such employment or upon leaving such employment as the result of a disability arising in the line of duty, retain as a part of his or her compensation his or her weapon and badge. Governor Deal signed this legislation as **Act Number 609** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 270, by Sen. P.K. Martin IV (R-Lawrenceville), includes several clean up provisions in Title 16. It adds a new Code Section at O.C.G.A. § 16-9-63, and at subsection (b), it makes it unlawful for any individual with the intent to secure a tangible benefit for himself or herself to make "a false, fictitious, or fraudulent statement or representation that such individual is a military veteran or recipient of a military decoration." It also adds in subsection (c) that it is "unlawful for any individual, with the intent to deceive, to appear in a court of this State while wearing: (1) the uniform of the armed forces of the United States or of the organized militia of this State if such individual is not authorized to wear such uniform; or (2) any military decoration which such individual has not, in fact, been awarded." It amends O.C.G.A. § 16-10-28, addressing in part the offense a person commits if he or she transmits a false public alarm (this includes when that person knowingly and intentionally transmits a report or warning about a destructive device or hazardous substance so that such explosion, detonation or release would endanger human life or cause injury or damage to property or if the individual causes or threatens to do physical harm to himself or others using a deadly weapon). It adds in O.C.G.A. § 42-2-8(c) that the Commissioner of the Department of Corrections, or

his or her designee serving in the position of chief of staff, can issue a warrant for an offender who has escaped the Department's custody. It further amends O.C.G.A. § 42-9-9, allowing a Department of Corrections employee, who has 20 or more years of service or 20 or more years of combined service as a parole officer, probation officer, or supervisor with the Department of Corrections or a community supervision officer, to be entitled to as a part of that employee's compensation the ability to retain his or her board-issued weapon and badge. An employee is also permitted to retain his or her badge and weapon if disabled while in the line of duty as a parole officer. Further, if a parole officer is killed in the line of duty, then the board-issued badge is to be given to a surviving family member. Finally, it increases the fee a non-indigent adult offender is to pay when applying to transfer his or her supervision from Georgia to another state or territory from $25.00 to $100.00. Governor Deal signed this measure as **Act Number 524** on May 3, 2016. The provisions of this legislation took effect upon signature except for Section 3 (the portion relating to the Department of Corrections' Commissioner's ability to permit his or her chief of staff to issue a warrant for an escapee); that portion of the legislation takes effect on July 1, 2016 and applies to offenses committed on or after such date.

SB 304, by Sen. Elena Parent (D-Atlanta), revises a previously reserved Code Section at O.C.G.A. § 35-1-2 to provide requirements for submitting forensic medical examination evidence which is collected from an alleged victim and the victim has requested that law enforcement officials be notified. The individual performing the examination (or his or her designee) is to notify the appropriate law enforcement agency of the collection of such evidence and provide a summary of all rights guaranteed to the alleged victim pursuant to the Crime Victim's Bill of Rights. At subsection (c), law enforcement officers who take possession of the evidence are to ensure that such evidence is submitted to the division within 30 days of its collection. If an examination was performed before July 1, 2016, and evidence was collected and the alleged victim requested that law enforcement be notified, then the individual who performed such exam is to notify the appropriate law enforcement agency of the collection of such evidence on or before July 15, 2016 – law enforcement is then to take possession of such evidence on or before July 31, 2016. Law enforcement officers who take possession of this evidence are to ensure that such evidence is submitted to the division by August 31, 2016. Law enforcement agencies are to create a list of evidence resulting from a forensic medical examination that is in such agency's possession on August 1, 2016, identifying the evidence as needing to be tested and submitting such listing of information to the division by August 15, 2016. None of the changes in this legislation impact the admissibility of evidence collected from a forensic medical examination. Starting on December 1, 2016, the division is to annually report information, outlining the number of cases which it has tested evidence and the number of cases which are waiting to be tested. This Report is to go to the executive counsel of the Governor, Speaker of the House, Lt. Governor, members of the House Judiciary and Senate Judiciary Non-Civil Committees, the House and Senate Health and Human Services Committees and to be posted online on the Georgia Bureau of Investigation's website. The language in this legislation incorporates some of the language and intent from Rep. Scott Holcomb's (D-Atlanta) bill on rape kits, HB 827, which stalled in the Senate. [Note this legislation originally had nothing to do with forensic medical examination evidence and its collection. Sen. Parent originally proposed a singular

Code Section change at O.C.G.A. § 35-3-34 to allow a person's involuntary hospitalization information received by the Georgia Crime Information Center to be kept without it being purged after five years, as current law allows. Her bill was amended in the House Judiciary Non-Civil Committee where Rep. Holcomb's ideas were included.] Governor Deal signed this measure into law as **Act Number 338** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 316, by Sen. Steve Gooch (R-Dahlonega), addresses prize limits for bingo games. This legislation stirred a good bit of discussion before it managed to be passed by the Senate. It amends O.C.G.A. § 16-12-51(l) so that numbers chosen by "lot" are to be chosen by a natural person who is physically located on the premises of the game. The additional change is at O.C.G.A. § 16-12-60(f), making it unlawful for the award of bingo prizes in excess of $3,000.00 in cash or gifts of equivalent value during any calendar week. The legislation stripped out current law prohibiting the daily limitation of $1,500.00, leaving only the weekly limit. Governor Deal signed this bill as **Act Number 376** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 332, by Sen. John Kennedy (R-Macon), clarifies which judges are exempt from weapons carry laws and prohibitions. It amends O.C.G.A. § 16-11-130, the exemptions from O.C.G.A. § 16-11-126 through O.C.G.A. § 16-11-127.2, adding that federal judges, Justices of the Supreme Court, Judges of the Court of Appeals, judges of superior and state courts, and administrative law judges and those former or retired judges are exempt from the gun carry provisions. It also requires in O.C.G.A. § 15-9-60(k)(13.1) that judges of probate courts are to issue personal identification cards for those judges or Justices with exemptions from carry prohibition s and the fees are to be determined by the Council of Probate Court Judges of Georgia. It also adds a new Chapter 25 in Title 15 granting additional privileges with the personal identification card to be issued by judge of the probate court of each county and the contents of these cards (e.g. recent photograph, full legal name, address, birth date, date card was issued, sex, height, weight, etc.). Governor Deal signed this legislation as **Act Number 379** on April 26, 2016. This Act takes effect on July 1, 2016.

Debtor and Creditor Law

SB 255, by Sen. Jesse Stone (R-Waynesboro), is the set of revisions in Chapter 4 of Title 18 for an overhaul of Georgia's garnishment statutes. It provides for constitutional protections in garnishment proceedings. Further, it addresses the process for the affidavit and summons to be issued for a garnishment proceeding as well as provides for property which is subject to garnishment (including certain exceptions). The legislation comes in part due to a federal court ruling on portions of Georgia's garnishment statute as unconstitutional. It does contain a five-day period to consider whether funds are in an account and the ten-day response time. The legislation outlines in O.C.G.A. § 18-4-4(c) when the garnishment period begins and how long it continues. In O.C.G.A. § 18-4-5, the maximum part of disposable earnings for any work week subject to garnishment is addressed so that such amount is not to exceed the lesser of: (A) twenty-five percent of the defendant's disposable earnings for that week; or (B) the amount by which the defendant's disposable earnings for that week exceed $217.00. For earnings for

a period other than a week – it is a multiple of $7.25 per hour. There are certain earnings and property not subject to garnishment and those are enumerated in O.C.G.A. § 18-4-6 (e.g. pension or benefits from an individual retirement account). The requirements for a summons for garnishment and service are outlined as well as the answer requirements by the garnishee. Language for each of the forms is also included in SB 255 for these proceedings. Governor Deal signed this legislation into law as **Act Number 325** on April 12, 2016. This Act takes effect 30 days from the date of the Governor's signature.

Domestic Relations

HB 52, by Rep. Regina Quick (R-Athens), gives courts the ability to waive the requirement for a parenting plan in the court's final decree in legal action involving the custody of a child in O.C.G.A. § 19-9-1(a). Governor Deal signed this legislation into law as **Act Number 362** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 229, by Rep. Brian Strickland (R-McDonough), addresses grandparents' visitation rights. It amends O.C.G.A. § 19-7-3, establishing, in part, that a "family member" is a grandparent, great-grandparent or sibling. Further, in (b) of this Code Section, it allows that any grandparent has the right to file an original action for visitation rights to a minor child and any family member has the right to intervene in and seek to obtain visitation rights in any action in which any court in Georgia has before it any question concerning the custody of a minor child, a divorce of the parents or a parent of such minor child, a termination of the parental rights of either parent of such minor child, or visitation rights concerning such minor child or whenever there has been an adoption in which the adopted child has been adopted by the child's blood relative or by a step-parent, notwithstanding O.C.G.A. § 19-8-19. At (c)(1), it allows the court, upon the filing of an original action or upon intervention in an existing proceeding, to grant any family member of the child reasonable visitation rights if the court finds by "clear and convincing evidence" that the health or welfare of the child would be harmed unless such visitation is granted and if the best interests of the child would be served by such visitation. Further, it adds that "the mere absence of an opportunity for a child to develop a relationship with a family member shall not be considered as harming the health or welfare of the child when there is no substantial preexisting relationship between the child and such family member." It outlines what the court is to consider: (1) if the child resided with the family member for six months or more; (2) the family member provided financial support for basic needs of the child for at least one year; (3) there was an established pattern of regular visitation or child care by the family member of the child; or (4) if other circumstances exist indicating that emotional or physical harm would be reasonably likely to result if such visitation is not granted. The provisions establish that visitation awarded to a family member is not to be less than 24 hours in any one-month period – provided that when more than one individual seeks visitation, the court is to determine the amount of time to award to each petitioner. The court is given discretion to determine the priority if more than one family files an action for visitation. When the legislation came to the Senate Health and Human Services Committee, Sen. Renee Unterman (R-Buford) added language from SB 3. Her language, the "Supporting and Strengthening Families Act," would allow an individual to use a power of attorney form to place their child with a relative or fictive kin. The House stripped out that language in the

version which passed. Governor Deal signed HB 229 as **Act Number 333** on April 26, 2016, and it takes effect on July 1, 2016.

HB 1070, by Rep. Katie Dempsey (R-Rome), provides that the Division of Family and Children's Services may use information contained in the records of an adopted child when determining placement of another child in the same home or during an investigation of child abuse or neglect. The legislation specifically adds a new subsection (b.1) at O.C.G.A. § 19-8-23 so that the Department of Human Services "may, in its sole discretion, make use of any information contained in the records of the Department concerning an adopted child and the adopted child's biological parents in connection with the placement of another child in the home of the adoptive parents of the child or in connection with the investigation of a report of child abuse or neglect made concerning the adopted child's biological parents." The Senate added the "Supporting and Strengthening Families Act" (SB 3), which provides that a parent may execute a power of attorney and designate another person for the care of a minor; that language was stricken from the final version of this legislation. Governor Deal signed HB 1070 as **Act Number 541** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 64, by Sen. Chuck Hufstetler (R-Rome), repeals voluntary acknowledgements of legitimation at O.C.G.A. § 19-7-21.1. It also amends the definition for "legal father" in the Juvenile Code at O.C.G.A. § 15-11-2(43) – so that a legal father means "a male who has not surrendered or had terminated his rights to a child and who: (A) has legally adopted such child; (B) was married to the biological mother of such child at the time such child was born or within the usual period of gestation, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19; (C) married the legal mother of such child after such child was born and recognized such child as his own, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19; or (D) has legitimated such child by a final order pursuant to Code Section 19-7-22." It further amends O.C.G.A. § 19-7-22, concerning a petition for legitimation. It, in part, adds new definitions for terms 'biological father' and 'legal father;' establishes a process for a biological father to render his relationships with the child legitimate by petitioning the court; outlines the contents of the legitimation petition (which requires that if there is a legal father who is not the biological father to be named as a party by the petitioner then that person is to be served and provided an opportunity to be heard); permits the court to issue an order declaring the biological father's relationship with the child to be legitimate if such is in the best interests of the child; permits a legitimation petition to be filed in the juvenile court for the county where a dependency proceeding regarding the child is pending unless there is a demand for a jury trial as to child support then the case is transferred to superior court; requires the superior court to enter an order establishing the obligation to support; permits the legitimation petition to include claims for visitation, parenting time, or custody; permits, in a petition to establish paternity, the alleged biological father's response to assert a third-party action for the legitimation of the child born out of wedlock, if the alleged biological father is in fact the biological father; and requires the court, in determining the best interests of the child, ensure that the petitioning alleged biological father is, in fact, the biological father and may order the mother, the alleged biological father, and child to submit to genetic testing. It revises in Section 5 of the legislation, the hospital program for establishing paternity in O.C.G.A. § 19-7-27: a public or private hospital, after an

unmarried woman gives birth and that hospital provides labor and delivery services, is to: provide to the mother and alleged father (1) written materials about administratively establishing paternity; (2) forms necessary for such voluntary acknowledgment; (3) a written description of the rights and responsibilities of voluntarily acknowledging paternity, the differences between paternity and legitimation, and the duty to support a child upon acknowledgment of paternity; and (4) opportunity, prior to discharge, to speak with staff (by phone or in person who are trained about administratively establishing paternity and the availability of judicial determinations of paternity). Such provision of materials does not constitute the unauthorized practice of law. After the birth of a child to an unmarried woman, the hospital, if the alleged father is present, is to give the mother and the alleged father the opportunity to execute a voluntary acknowledgment of paternity, if a notary public is available; file the signed voluntary acknowledgment of paternity with the State Office of Vital Records within 30 days of execution of the document (if signed at the hospital or before the mother's discharge); and provide the mother and alleged father copies of such document. In O.C.G.A. § 19-7-46.1(d), it requires that the Department provide a copy of the signed voluntary acknowledgment of paternity to any signatory upon request. Governor Deal signed this bill into law as **Act Number 404** on April 26, 2016. This Act becomes effective on July 1, 2016. [Note that this legislation, SB 64, was required to be signed *after* HB 887 before Section 15 of the legislation would take effect. SB 64 was signed as Act Number 404 after HB 887, which was signed as Act Number 337. Thus, Section 15 does take effect. Section 15 **repeals** Article 9 of Chapter 5 of Title 19, the "Supporting and Strengthening Families Act" (SB 3) by Sen. Renee Unterman (R-Buford) which was created in HB 887. Therefore, Governor Deal was provided an option as to whether to allow the language, from SB 3, to become law.]

SB 331, by Sen. Bruce Thompson (R-White), addresses the termination of a father's parental rights. It defines "aggravated circumstances" in O.C.G.A. § 15-11-2(5) to also include "caused his child to be conceived as a result of having non-consensual sexual intercourse with the mother of his child or when the mother is less than ten years of age." It further amends O.C.G.A. § 19-7-22(c), concerning petitions for legitimation of a child, so that the court may order the father's relationship with the child to be legitimate and may also order that it creates a presumption against legitimation, when by clear and convincing evidence, the father caused his child to be conceived as a result of non-consensual sexual contact when the mother is less than ten years of age. Such fathers are barred from inheriting from a child so conceived; however, a child conceived as a result of non-consensual sex may still inherit from the father. The bill also amends O.C.G.A. § 19-8-10, regarding the surrender or termination of parental rights which is not required in the context of adoption, when the court finds by clear and convincing evidence, that the parents caused his child to be conceived as a result of having non-consensual intercourse with the mother of his child or when the mother is less than ten years of age. A superior court may terminate parental rights, upon determination of clear and convincing evidence in O.C.G.A. § 19-8-11(a)(3)(D), if the parent caused the child to be conceived as a result of having non-consensual intercourse with the mother of his child or when the mother is less than ten years of age. Finally, the legislation addresses inheritance from children born out-of-wedlock at O.C.G.A. § 53-2-4(b)(3). Governor Deal signed this legislation as **Act Number 361** on April 26, 2016. Changes take effect on July 1, 2016.

Economic Development

SB 417, by Sen. Jeff Mullis (R-Chickamauga), is the "Georgia Film and Television Trail Act," which is created in Article 9 of Chapter 7 of Title 50 and is under the purview of the Department of Economic Development. At O.C.G.A. § 50-7-114, it requires that the Department be "guided" by these policies in creating and administering the Trail: "(1) a balanced system of locations throughout the State should be sought; (2) assistance and encouragement should be provided for local governments in the development of the trail; (3) the advice, cooperation, and assistance of other State agencies, local governments and agencies thereof, and private associations and organizations should be sought in developing and maintaining the signs; (4) the trail should be planned, constructed, and maintained on a long-term basis, and in connection therewith long-term control of the signs and marking of the trail; and (5) a program for the publicity and education of the public on the existence of the Trail should be established." The Department of Transportation is responsible for placing signs at film and television sites as determined by the Department of Economic Development. There are immunities from liability for persons who visit these sites on the Trail in O.C.G.A. § 50-7-116. Finally, the legislation adds in O.C.G.A. § 45-7-21(a.1) that "each member of any State board whose membership is elected wholly by votes of the members of the House of Representatives and Senate shall receive the same per diem and transportation costs as that received by a member of the General Assembly for each day of actual attendance at meetings of such board and the committee meetings of such boards." Governor Deal signed this legislation as **Act Number 398** on April 26, 2016. This legislation takes effect on July 1, 2016.

Education

HB 54, by Rep. Keisha Waites (D-Atlanta), adds a new code section at O.C.G.A. § 20-3-316.2. This new provision permits a voluntary check off on income tax returns and drivers' licenses for contributions to the Georgia Student Finance Authority to assist children with post-secondary educational costs when their parent, who was a law enforcement officer, firefighter, EMT, prison guard or paramedic killed or disabled while on duty. Governor Deal signed this initiative as **Act Number 520** on May 3, 2016. This Act takes effect on July 1, 2016.

HB 65, by Rep. Michael Caldwell (R-Woodstock), adds a new Code Section at O.C.G.A. § 20-2-167.1. It requires at least two public meetings to be held on schools' annual operating budgets. It also requires that the governing body of a charter school, with a statewide attendance zone and students residing in 25 percent or more of Georgia's counties or in three or more counties which are not geographically contiguous, conduct one such public meeting virtually and one such public meeting in the county in which its primary business office is located. Public meetings are to be advertised in a local newspaper. It also requires a summary report on the budget be posted on the governing body's website. Governor Deal signed this bill into law as **Act Number 612** on May 3, 2016. This Act takes effect on July 1, 2016.

HB 100, by Rep. Tom Dickson (R-Cohutta), provides requirements relating to virtual instruction for grades k-12 when a child is enrolled in one school system and resides in another

in O.C.G.A. § 20-2-167. It requires in (b) that a local school system, providing virtual instruction when total student enrollment is composed of more than five (5) percent out-of-system students is to: (1) ensure that 90 percent of funds earned for out-of-system students are expended for the costs of virtual instruction and return excess funds to the State treasury those moneys not expended; (2) include the virtual school and local school system's College and Career Ready Performance Index (CCRPI) data academic achievement results for out-of-system students; and (3) not provide virtual instruction to out-of- system students in the current academic year if the local school system has a CCRPI for the most recently available previous academic year that is below the State average for such previous year and it shall not provide virtual instruction to out-of-system students in the current academic year through a virtual school within the local school system that has a CCRPI for the most recently available previous academic year that is below the State average for such previous year. Paragraph (b) is to stand repealed on June 30, 2019. Further in (c), it addresses waivers. It states that this Code Section shall not be subject to waiver pursuant to O.C.G.A. § 20-2-82 for a "strategic waivers school system, O.C.G.A. § 20-2-2063.2 for a charter system, O.C.G.A. § 20-2-2065 for a charter school or O.C.G.A. § 20-2-244." Governor Deal signed this legislation as **Act Number 614** on May 3, 2016. This Act takes effect on July 1, 2016.

HB 614, by Valencia Stovall (D-Lake City), creates the "Landon Dunson Act" at O.C.G.A. § 20-2-324.2 permitting local boards of education the ability to have video cameras placed in the classrooms where children with disabilities are being taught. It authorizes the Department of Education to approve local school systems for participation and may approve the local school systems which already utilize video monitoring cameras and equipment in their special education self-contained classrooms through an application process. There are restrictions on the uses for these cameras (e.g. the recorded material is not to be used for marketing purposes). This legislation is not a mandate for these cameras. Governor Deal signed this bill as **Act Number 528** on May 3, 2016. The Act takes effect on July 1, 2016.

HB 659, by Rep. Dave Belton (R-Buckhead), had several changes added in the Senate. It addresses standards for local school board members in O.C.G.A. § 20-2-49, clarifying that the board members' motivation for service should be "improvement of schools, which should include maintaining accreditation, and the academic achievement of all students, and the effective representation of parents' and other constituents'' interests in the operation of the local school system." It incorporates language which had previously been SB 310 by Sen. William Ligon, Jr. (R-Brunswick). Sen. Ligon's legislation, in O.C.G.A. § 20-1-11 (the "Transparency in Education Act"), requires that for any competitive grant over $20 million, the department or agency applying for the grant, which will impact pre-kindergarten through grade 12, is required to provide a 30-day notice with a written analysis of the long-term projections of unfunded costs; impacts on State and local education policy; the purpose and effect of the grant on existing programs and policies; compliance mandates and policy directives associated with satisfaction of the terms of the grant; and any laws which must either be passed or rescinded to comply with the grant terms. Sen. Ligon's rationale for the need for this legislation was the State's participation in the Race to the Top grant. Another Senate Amendment added SB 374 by Sen. Lindsey Tippins (R-Marietta), which allows for a pilot program to consolidate federal, state and local funds to support a school-wide program as

allowed in 20 U.S.C. Section 6314(a)(1) to be created in O.C.G.A. § 20-2-172. The underlying proposal, as originally introduced, seeks to provide transparency of financial information of local school systems and their schools – looking at the annual budget as well as salary and benefit expenditures for all staff, facility costs, maintenance costs, etc. This information would be required to be posted on the local school system's and each State charter school's websites. The language for this transparency and accuracy of financial information is added in HB 659 at Section 3 and inserted in O.C.G.A. § 20-14-45 et seq. Governor Deal **vetoed** this bill on May 3, 2016 as **Veto Number 6**. In his veto message, Governor Deal noted that the transparency proposal to allow parents, students, teachers and members of the community was important to the strategic planning process and that he would include language in his recommendations in his 2017 legislative agenda and in the recommendations from the Education Reform Commission. However, he had concerns about the pilot program authorized in the bill and the potential for non-disclosure by local districts on how funds would be spent.

HB 739, by Rep. Kevin Tanner (R-Dawsonville), addresses Chapter 2 of Title 20 to provide that the State recommendation process for instructional materials and content is optional. It also requires a review and recommendation process for locally approved instructional materials and a public review of proposed and approved instructional materials and content. In O.C.G.A. § 20-2-1012 it permits the State Board of Education to select a committee or committees of educators actually engaged in public school work in Georgia to examine instructional materials and content and make recommendations thereon to the Board. If the State Board of Education elects to provide for State-approved instructional materials and content, then the State Board of Education is to establish a review and recommendation process – including an opportunity for parents to comment and make input on any proposed instructional materials and content. The State Board is to post on its website, in a prominent location, a list of the proposed instructional materials and content for public review and the State Board is to make all State-approved instructional materials and content available for review upon request and may specify reasonable hours for the review. If materials are approved, then the State Board is to designate at least one employee to serve as the contact person for inquiries related to or requests for review of the materials. The legislation also adds a new Code Section at O.C.G.A. § 20-2-1017, addressing "locally approved instructional materials and content." These would include materials and content which are the "principal source of study for a State funded course, not including supplementary or ancillary material that is adopted by a local board of education or used by a local school system. Supplementary or ancillary materials include, but are "not limited to articles, online simulations, worksheets, novels, biographies, speeches, videos, music, and similar resources in any medium, including both physical or digital." This Code Section sets up the process for local boards of education to follow up on a review and recommendation process for locally approved instructional materials and content – it includes a notice to parents and guardians "by the most practical means" and the *local* board of education is to post on its website, in a prominent place, a list of the materials and content for public review – and make those available to the public upon request with specified hours. The local board of education is also to maintain on its website a list of the locally approved instructional materials and content used by that school system or school. The local board of education is also to designate an individual to oversee this effort. Governor Deal signed this bill into law as **Act Number 523** on May 3, 2016. The portion

concerning the required action by local boards of education is to become effective on July 1, 2017 and apply to school years beginning 2017-2018 and thereafter. The legislation otherwise takes effect on July 1, 2016.

HB 777, by Rep. Mike Dudgeon (R-Johns Creek), allows school bus drivers to use cellular telephones in a similar manner as a two-way radio to allow live communication between the driver and school officials or public safety officials in O.C.G.A. § 40-6-165(e). Otherwise, school bus drivers are not to use or operate a cellular telephone while the bus is in motion. Governor Deal signed this initiative as **Act Number 443** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 798, by Rep. Joyce Chandler (R-Grayson), revises eligibility for Zell Miller Scholarships and HOPE scholarships for those students who are home study students and students graduating from ineligible high schools. It specifically amends O.C.G.A. § 20-3-519(27), regarding the Zell Miller Scholarship, so that a student who has completed a home study program meeting requirements of O.C.G.A. § 20-2-690(c) or has graduated from a high school which is not an eligible high school and received a score in the ninety-third percentile or higher on the ACT, on the combined critical reading and math portions on a single administration of the SAT administered prior to March 1, 2016, or on the total score on a single administration of the SAT administered on or after March 1, 2016 would be eligible. Similarly, changes are made in O.C.G.A. § 20-3-519.2 concerning HOPE scholarship eligibility – the student can graduate from a high school which is not an eligible high school if he or she earns a score in the seventy-fifth percentile or higher nationally on a standardized college admission test, such as the SAT or ACT. Governor Deal signed this initiative as **Act Number 521** on May 3, 2016. Changes in this Act take effect on July 1, 2016.

HB 801, by Rep. Jan Jones (R-Milton), revises the provisions concerning the HOPE scholarship and requires that, beginning with students graduating from high school on or after May 1, 2017, in order to be eligible for a HOPE scholarship, student is to receive credit in at least four courses in certain categories prior to graduating from high school (and such course can only be counted one time) – it now includes computer science in the advanced science category in O.C.G.A. § 20-2-157(f). Further revisions are added in O.C.G.A. § 20-3-519.2(b), concerning eligibility for a HOPE scholarship, so that beginning in academic year 2017-2018, the cumulative grade point average calculated is required to include weighted grades for specific science, technology, engineering, and mathematics college courses. Additionally, starting with the completion of the 2017-2018 academic year, the Georgia Student Finance Commission is to provide a biennial report to the chairs of the House Committee on Higher Education and the Senate Higher Education Committee. The report is to include information on fields identified as "high demand fields" and associated workforce shortages in science, technology, engineering, mathematics, and healthcare. It also amends definitions relative to HOPE scholarships and grants in O.C.G.A. § 20-3-519(9.1) (factor rate); (13) (HOPE award rate); and (16.1) (HOPE tuition payment). Governor Deal signed this legislation as **Act Number 617** on May 3, 2016. The legislation takes effect on July 1, 2016 except portion of the Act addressing the new definitions which will take effect on July 1, 2020.

HB 879, by Rep. Tom Taylor (R-Dunwoody), establishes the "Georgia Seal of Biliteracy" in O.C.G.A. § 20-2-159.5, which will recognize high school graduates who become highly proficient in a language(s) other than English. The purpose of the seal is to give universities a way to provide academic credit for those graduates and for employers to be able to identify students with biliteracy skills. Local school system participation in this program is voluntary and no local school system is required to expend added resources or hire additional personnel to implement the provisions of this law. The Department of Education, though, is required to prepare and deliver to a participating local school system an appropriate insignia to be affixed to the diploma or transcript of the pupil, indicating that the pupil was awarded a Georgia Seal of Biliteracy. A Senate amendment added by Sen. William Ligon, Jr. (R-Brunswick), inserting language from a previous bill providing that State mandated tests so that such would be optional for students with disabilities or with serious health conditions, was stripped by the House in the final version. Governor Deal signed this bill as **Act Number 618** on May 3, 2016. This Act takes effect July 1, 2016.

HB 895, by Rep. Rahn Mayo (D-Decatur), requires, in O.C.G.A. § 20-2-2072, that members of the governing boards of the nonprofit organization of each charter school include in their annual board training two to three hours of training in "sound fiscal management and monitoring the implementation of the budget" (which would include board developed policies to ensure sound fiscal management; holding the principal or its equivalent accountable for implementation of the budget in a manner consistent with the school's strategic plan; establishing through policy the level of spending beyond the budget for which the school leader must seek board approval; monitoring the school's audits, monthly financial reports and additional financial reports; reviewing and addressing annually audited financial records and audit findings; addressing fiscal matters in a manner consistent with State law, sound business practice and ethical principles regarding conflicts of interest; and operating in a manner that the board's financial decisions and actions do not provide unfair financial or other opportunistic advantages to any member of the governance board, their family members, associates or individual constituents). Further, the legislation adds two new Code Sections at O.C.G.A. § 20-2-2073 (requires that the State Board of Education establish a charter schools financial management certification program for charter school leaders and personnel responsible for the school's budget) and O.C.G.A. § 20-2-2074 (so that the principal of a charter school is prohibited from serving simultaneously as the chief financial officer for the school). It also amends O.C.G.A. § 20-2-2083, regarding the powers and duties of the State Charter Schools Commission, addressing financial training annually to include sound fiscal management and monitoring of the budget and to require there be established a charter schools financial management certification program for State Charter School leaders and personnel. It also amends O.C.G.A. § 20-2-2084 adding a new subsection at (f.1) so that the principal or equivalent of a State Charter School is not to serve simultaneously as the chief financial officer for a State Charter School. Governor Deal signed this legislation as **Act Number 525** on May 3, 2016. Changes in this Act take effect on July 1, 2016.

HB 959, by Rep. Beth Beskin (R-Atlanta), is the annual Title 20 clean up proposal. It also incorporates SB 329 which expands dual credit courses, and SB 348 which authorizes charter

school systems and strategic waiver systems to include career academies if they have a decision- making governing board. Finally, it includes HB 814, the "Educating Children of Military Families Act," which requires the Department of Education to create a unique identifier for these children so that their data may be tracked if they move between school systems. Specifics include:

- Amendments to O.C.G.A. §20-2-63(a)(6) addressing prohibitions of local boards of education – it clarifies that no board member is prohibited from discussing non-confidential matters with a constituent; attending or conducting a town hall meeting; or discussing any non-confidential matter with representatives of the media.
- Adds in O.C.G.A. § 20-2-149.2(b)(2) that the State Board of the Technical College System of Georgia is to consult with the Georgia industry association, Department of Labor, and other State recognized strategic work force industries and initiatives to determine the technical college certificate credit programs that meet the requirements to ensure that skills meeting the workforce need are available and that the programs are "instructionally rigorous, operate in accordance with industry standards and provide quality training." It also adds in O.C.G.A. § 20-2-157(b) that students who receive a diploma based on the requirements in O.C.G.A. § 20-2-149.2 will be deemed to have met the rigor requirements for HOPE scholarship eligibility.
- Changes requirements for "Move on When Ready Act" in O.C.G.A. § 20-2-161.3, permitting those students who receive the industry and job-related skills requisite for a work force need identified by the State Board of Technical College System of Georgia and meet other requirements may receive a high school diploma.
- Amends O.C.G.A. § 20-2-210(e)(3) so that the Department of Education "may by agreement share individual data with the Office of Student Achievement for inclusion in the state-wide comprehensive educational information system created pursuant to code Section 20-2-320 for the purposes of evaluating educational programs and of improving postsecondary educator preparation so long as the office agrees that it will not disclose personally identifiable information about any public school employee."
- Addresses end-of-course assessments for students in O.C.G.A. § 20-2-281. At (f), it exempts a student from these for a core subject if the student (A) earns a grade of A, B, or C in a dual credit course pursuant to O.C.G.A. §20-2-149.2 or O.C.G.A. § 20-2-161.3; (B) earns a 3 or above on an advanced placement examination; or (C) earns a 4 or above on an international baccalaureate examination.
- Creates the "Educating Children of Military Families Act" in O.C.G.A. § 20-2-324.2, requiring the Department of Education to establish a "unique identifier" for each student of a military family to allow for disaggregation of data.
- Amends the "Building Resourceful Individuals to Develop Georgia's Economy Act" at O.C.G.A. § 20-2-326, changing the definition for "college and career academy" to mean "a specialized school established as a charter school or pursuant to a contract for a strategic waivers school system or charter system which formalizes a partnership that demonstrates a collaboration between business, industry, and community stakeholders to advance work force development between one or more local boards of education, a private individual, a private organization, or a State or local public entity in cooperation with one or more postsecondary institutions." It modifies the same definition for this

term in the Office of College and Career Transitions Code Section at O.C.G.A. § 20-4-37(b)(5).

- Alters the Office of Student Achievement's ability to incorporate a nonprofit corporation as a public foundation and its abilities at O.C.G.A. § 20-14-26.1(b)(7) – it is not permitted to purchase, condemn, or exchange real property but it may receive and accept real property by gift, devise or court order as long as it does not hold the property and maintain or use it (it has to be liquidated within a reasonable timeframe).

Governor Deal **vetoed** HB 959 on May 3, 2016 as **Veto Number 11** because of its inclusion of the SB 329 language.

HB 1072, by Rep. Christian Coomer (R-Cartersville), amends O.C.G.A. § 20-3-374. This relates to service cancelable loan fund and authorized types of service cancelable educational loans which are financed with State funds and issued by the Georgia Student Finance Authority. The change in this legislation removes the ineligibility for such loans for members of the Georgia National Guard who are also receiving HOPE scholarship or HOPE grant funds. Governor Deal signed this bill as **Act Number 621** on May 3, 2016. The change takes effect July 1, 2016.

SB 18, by Sen. Ed Harbison (D-Columbus), amends O.C.G.A. § 20-4-38 to require that the Technical College System of Georgia maintain policies for granting academic credit to students for college level learning acquired from military service prior to enrollment. Governor Deal signed this proposal as **Act Number 610** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 309, by Sen. Burt Jones (R-Jackson), adds a new Code Section at O.C.G.A. § 20-2-316.3, under the State's "Quality Basic Education Act" to provide that high schools which receive State funding cannot participate in, sponsor or provide coaching staff for interscholastic athletic events which are conducted under the rules of, or scheduled by any athletic association which prohibits personal and voluntary religious expression of student athletes other than as "required to protect the safety of the participants or the conduct of the athletic event in a manner consistent with the rules of the particular athletic event." For instance this could be some type of expression on the student's athletic wear. Further, it states that high schools which receive State funding cannot participate in, sponsor or provide coaching staff for interscholastic athletic events which are conducted under the rules of, or scheduled by, any athletic association which prohibits its member schools from organizing and playing scrimmage games, matches, or other athletic competitions with schools which are nonmember schools even though (1) that prior to such the administrators of both schools agree in writing to participate in such competition; (2) each school is in compliance with O.C.G.A. § 20-2-319.2; (3) each school is in compliance with the requirements of O.C.G.A. § 20-2-324.1; and (4) such athletic competitions are limited to high school student athletes. Governor Deal signed this initiative as **Act Number 522** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 329, by Sen. Lindsey Tippins (R-Marietta), provides in Chapter 2 of Title 20 of the "Quality Basic Education Act" for students to be awarded a high school diploma if they have

completed post-secondary dual credit coursework and have earned certification to work in an "in-need" industry as identified by the Technical College System of Georgia (TCGS is to consult with the Georgia industry association, Georgia Department of Labor and other state recognized strategic work force industries and initiatives to determine the technical college certificate of credit programs that meet the requirements). It also addresses the uniform reporting system for academic eligibility requirements for the receipt of a HOPE scholarship in O.C.G.A. § 20-2-157(h) – it allows a student who receives a diploma under O.C.G.A. § 20-2-149.2 to be deemed to have met all "rigor" requirements. Finally, the legislation addresses the "Move on When Ready Act" at O.C.G.A. § 20-2-161.3(f)(3), permitting the industry and job related skills requisite for a work force need as identified by the Technical College System of Georgia to be part of the options for an individual to meet to be awarded a high school diploma (in addition to the required educational studies to have been satisfied). Governor Deal **vetoed** this bill on May 3, 2016 along with HB 959 which also contained this language. This veto was **Veto Number 14**. His concerns over this legislation centered on the allowance of 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 and whether those students would meet the rigor requirements.

SB 348, by Sen. Lindsey Tippins (R-Marietta), provides for college and career academies as charter schools or as schools within a strategic waivers school system or charter system. Changes Amendments are made in O.C.G.A. § 20-2-326(4) with the definition of "college and career academy" in the "Building Resourceful Individuals to Develop Georgia's Economy Act." At O.C.G.A. § 20-4-37(b)(5), regarding the Office of College and Career Transitions, the definition for 'college and career academy' now means a "specialized school established as a charter school or pursuant to a contract for a strategic waivers school system or charter system, which formalizes a partnership that demonstrates a collaboration between business, industry, and community stakeholders to advance work force development between one or more local boards of education, a private individual, a private organization, or a state or local public entity in cooperation with one or more postsecondary institutions. A charter school charter system, or strategic waivers school system contract establishing a college and career academy shall include provisions requiring that the college and career academy have a governing board reflective of the school community and the partnership with decision-making authority and requiring that governing board members complete initial and annual governance training, including, but not limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations." Governor Deal signed this legislation as **Act Number 613** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 355, by Sen. William Ligon, Jr. (R-Brunswick), is the "Student-Teacher Protection Act" and addresses testing requirements, permitting opt-out provisions for students with disabilities or terminal illnesses. It also provides that students may opt to use pencil and paper to take such assessments. The legislation amends or adds:

- O.C.G.A. § 20-2-281 and adds two new subsections. In (r), it permits assessments required by either a local system or the State Board to be administered in a paper-and-

pencil format when the student's parent or guardian requests such and if the student is 18 years of age or older then he or she may request such. In (s), it requires that the State School Superintendent develop guidelines by September 1, 2016 (which are required to be approved by the State Board of Education) to identify a range of appropriate policies to address how students not participating in a state-wide assessment will be supervised and alternatives, if any, to such assessment will be provided during the test administration. (This is to prevent the "sit and stare" concern.)

- A new Code Section at O.C.G.A. § 20-2-281.2 which in (a)(1) permits a parent or guardian upon written request to school officials to excuse his or her child from any or all parts of State mandated assessments administered pursuant to O.C.G.A. § 20-2-281 and such are to be granted when the child has been diagnosed with a life-threatening or serious health condition and a licensed therapist's order or a physician's order to excuse the child from mandated assessments. This Code Section at (b) addresses when students may make up federally, State or locally mandated assessments. Subsection (c) requires that if the rating on a school performance report is affected by the number of students excused or otherwise not taking the standardized assessments, then the Department of Education is to include such on the school performance report.
- O.C.G.A. § 20-2-283(b)(2)(B), adds that a student is required to be retested when he or she does not perform at grade level on any end-of-grade assessment, an alternative assessment instrument that is appropriate for the student's grade level or any other assessment as provided by the State Board of Education and the local board of education and promotion of the student is to be determined based on the student's performance on these assessments.

Governor Deal **vetoed** SB 355 on May 3, 2016 as **Veto Number 15**. The Governor's veto message stated that "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." Further, he stated that "there is no need for State-level intervention in addition to the regulations already set in place."

SB 364, by Sen. Lindsey Tippins (R-Marietta), is the Governor's education reform legislation for 2016. It revises current provisions relating to the annual teacher, principal, and assistant principal evaluations in O.C.G.A. § 20-2-210(b). It requires:

- That the evaluation system for the performance of teachers and leaders utilize multiple measures.
- It also states that "growth in student achievement is not to include the test scores of any student who has not been in attendance for a specific course for at least 90 percent of the instructional days of such course."
- The teachers of record, assistant principals and principals are to be evaluated "using multiple rigorous and transparent measures" and given written notice in advance of the school year of the evaluation measures and any specific indicators that will be used in the evaluation.
- It outlines, beginning 2016-2017 school year, evaluation measures' elements: (A) for those who teach courses subject to the annual state assessments aligned with State

standards and (B) for teachers of record who teach courses that are not subject to annual state assessments. In both, student growth is to account for 30 percent of the evaluation and professional growth 20 percent in the evaluation.

- It also outlines elements for the principals and assistant principals' evaluations: (A) student growth based on the school's score on annual State assessments count for 40 percent of the evaluation; (B) school climate counts for 10 percent of the evaluation; (C) combination of achievement gap closure, "Beat the Odds," and College and Career Readiness Performance Index data, as allowed by the flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract, count for 20 percent of the evaluation; and (D) results of evaluations, observations, and standards count for 30 percent of the evaluation.
- It requires that each teacher of record, assistant principal, and principal be evaluated on his or her own "individual merits and neither the State Board of Education, a local school system, nor a charter school is to impose or require any quota system or predetermined distribution ratings for teachers of record, assistant principals, or principals."
- It requires the annual evaluation to include multiple classroom observations conducted by "appropriately trained and credentialed evaluators." A local system or charter school may include in its flexibility contract or other agreement with the State Board of Education for a local school system not under a flexibility contract, a provision for a "tiered evaluation system" in which reduced observations may be conducted to provide additional time for evaluators to coach and mentor new teachers and teachers with a performance rating of "Needs Development" or "Ineffective." A local system or charter school system, where teachers have a minimum of three years' teaching experience and a performance rating of "Proficient" or "Exemplary," is permitted to require no less than two classroom observations and one summative evaluation for the school year.
- There are also major changes relating to student assessments so that in O.C.G.A. § 20-2-281(a) a student assessment program is to include a comprehensive summative assessment program for grades three through twelve. It requires each local system to administer, with State funds (subject to appropriations), a research-based formative assessment with a summative component that is tied to performance indicators in English, language arts/reading, and mathematics in grades one and two. It requires the State Board of Education to adopt a school readiness assessment for students entering the first grade. To facilitate "mastery" in reading by the end of third grade, each local school system is "strongly encouraged" to develop and implement a program of multiple formative assessments in reading and mathematics for kindergarten through grade five. As part of the comprehensive summative assessment program, the State Board of Education is to adopt and administer end-of-course assessments for students in grades nine through twelve for all core subjects. A required writing performance assessment may be embedded within the assessments. It still permits in (d) the adoption of alternate assessments and requires those to be aligned with alternate academic achievement standards which have been adopted (using a validated standards-setting process) for students with the most significant cognitive disabilities (but maintaining requirements with the Individuals with Disabilities Education Act). It adds a new

subsection (r) which moves the end-of-grade and end-of-course assessment testing windows "as close to the end of the school year or semester as possible." It also requires that the Department of Education prepare and submit a report to the House and Senate Education Committees, no later than December 31, 2016, on proposed policies and obstacles which prevent testing windows from being scheduled later in the school year or semester. A new subsection (s) in this Code Section requires that all assessments adopted or developed by the State Board of Education are to be verified for reliability and validity by a nationally recognized research-based, third-party evaluator.

Governor Deal signed SB 364 as **Act Number 529** on May 3, 2016. The changes embedded in SB 364 become effective on July 1, 2016.

Elections and Ethics

HB 370, by Rep. Barry Fleming (R-Harlem), addresses ethics in government, adding a new Code Section at O.C.G.A. § 21-5-7.2. In part, it provides that campaign contribution disclosure reports and personal financial disclosure statement filings, as required by Chapter 5 of Title 21 between January 1, 2010 and January 10, 2014 for public officers (for these offices outlined in O.C.G.A. §21-5-3(22): A) Every constitutional officer; (B) Every elected state official; (C) The executive head of every state department or agency, whether elected or appointed; (D) Each member of the General Assembly; (E) The executive director of each state board, commission, council, or authority and the members thereof; (F) Every elected county official and every elected member of a local board of education; and(G) Every elected municipal official) is granted a grace period for the filing of such reports from the effective date of this Act through December 31, 2016. It provides further that public officers for county offices, local school boards and municipal offices who did not file, filed late, or filed an incomplete report required between January 1, 2010 and January 10, 2014 and subsequently files complete and proper reports for such time period by December 31, 2016 will be deemed in compliance and any fines, late fees, and penalties imposed as result of the failure to file, late filing, or incomplete filing of the reports is to be waived upon the approval of such reports by the Ethics Commission. It now allows that these reports may be filed electronically or in a paper format – however, if filed on paper, the Commission may charge a fee of not more than $40.00. Governor Deal equated this legislation as to providing "amnesty" for individuals who failed to follow the correct reporting requirements. It also proposed to place an undue burden on the Government Transparency and Campaign Finance Commission with distribution of forms and notice. For those reasons, Governor Deal **vetoed** this bill as **Veto Number 5** on May 3, 2016.

SB 199, by Sen. Rick Jeffares (R-McDonough), defines 'campaign material' at O.C.G.A. § 21-2-2(3.1) and prohibits distribution of such materials in areas of voting precincts where campaigning is already prohibited. Campaign material includes newspapers, booklets, pamphlets, cards, signs, paraphernalia, or any other printed matter referring to a candidate whose name appears on the ballot; a referendum which appears on the ballot; or a political party or body which has a nominee or nominees on the ballot. "Campaign material shall not include any written or printed matter that is used exclusively for the personal and private

reference of an individual elector during the course of voting." This portion of the bill arose due to a civil action filed because of a voting issue in Douglas County. The legislation also contains some of the language from HB 980 by Rep. Alan Powell (R-Hartwell). That was the language from O.C.G.A. § 21-2-132(c)(3), concerning the filing notice of candidacy, nomination petition, and affidavit; payment of qualifying fee; pauper's affidavit and qualifying petition for exemption from qualifying fee; and military service. It permits the nonpartisan qualifying periods for nonpartisan municipal offices to commence no earlier than 8:30 AM on the third Monday in August (now it is the last Monday in August). Additionally, in the case where no individual has filed a notice of candidacy and paid the prescribed qualifying fee to fill a particular office in a nonpartisan municipal election, the governing authority of the municipality is authorized to re-open qualifying for candidates at 9:00 AM on the Monday next following the close of the preceding qualifying period and cease such qualifying at 5:00 PM on the Tuesday immediately following such Monday, notwithstanding the fact that such days may be legal holidays. The legislation also addresses absentee ballots and advance voting in O.C.G.A. § 21-2-385(d)(1), changing the permitted Saturdays should the Saturday be a public and legal holiday or follows a public and legal holiday occurring on the Thursday or Friday immediately preceding such Saturday or if that Saturday immediately precedes a public and legal holiday occurring on the following Sunday or Monday (this language was similar to what was proposed by Rep. Heath Clark (R-Warner Robins) in HB 772). This legislation also changes definitions relative to public officials' conduct and lobbyist disclosure in O.C.G.A. § 21-5-70(4.1)(G): it in part clarifies what qualifies as an expenditure and requires that such expenditure not exceed an amount or value of $75.00 per person. It also changes the definition of "lobbyist" at O.C.G.A. § 21-5-70(5)(F) which currently can mean a person who is an employee of the executive branch or judicial branch of local government who engages in any activity covered under subparagraph (D) of this paragraph; this changes such definition by striking "of the executive branch or judicial branch". It also amends O.C.G.A. § 21-5-71(i) adding a new paragraph (6) (concerning registration of lobbyists with the Ethics Commission) so that "any employee of the executive or judicial branch of State government; provided, however, that when such an employee is acting on behalf of such government employer, meeting with or appearing before a public officer other than one from the same branch of government which employs such employee, and engaged in activity for which registration would otherwise be required under this Code section, such employee shall be required to display an identification card, issued by such employer, which shall have printed thereon the employee's name and the name of the employer." The legislation also addresses persons ineligible to hold office at O.C.G.A. § 45-2-1(a), adding that the General Assembly may provide by local law for a period of district residency for candidates for any county or municipal governing authority or board of education – not to exceed 12 months residency within the district from which each such candidate seeks election. Governor Deal signed SB 199 as **Act Number 347** on April 26, 2016. The changes in this legislation took effect upon signature.

Food, Drugs and Cosmetics

HB 362, by Rep. Valerie Clark (R-Lawrenceville), addresses O.C.G.A. § 16-13-30.3 and the regulation of controlled substances (in particular, ephedrine, pseudoephedrine, and

phenylpropanolamine). Originally, HB 362 addressed practitioners prescribing albuterol sulfate for schools' use. This language for real-time tracking of pseudoephedrine products had also been in HB 588 which stalled after passing the Senate. It requires in (c)(1) that products which have as the sole active ingredient of pseudoephedrine may be offered for retail sale only if sold in blister packaging. Further, non-prescription products whose sole active ingredient is ephedrine or pseudoephedrine are only to be sold in a pharmacy in a manner that complies with the State Board of Pharmacy Rules (pursuant to O.C.G.A. § 16-13-29.2). It places limits on these sales in (c)(2) so that not more than 3.6 grams of ephedrine or pseudoephedrine per day in dosage form or more than 9 grams of ephedrine or pseudoephedrine per 30 day period in dosage form is permitted to be sold (this "weight" is for the actual drug and not the product). Pharmacies are required to keep records of these sales for a two year period from the date of each transaction. Only law enforcement agencies are provided with immediate access by a pharmacy to the records and electronic logs or records upon request. Pharmacies may destroy the required information which is collected after two years from the date of the transaction. This legislation requires on and after January 1, 2017 that all pharmacies in the State track the sales of non-prescription products containing ephedrine and pseudoephedrine in a real-time electronic logging system – sales are to be halted if the electronic logging system generates a "stop sale alert" (unless the person making the sale is in "reasonable fear of imminent bodily harm if he or she does not complete the sale"). The legislation addresses the need to keep a written log if there are mechanical or electronic failures of the real-time electronic logging system. The legislation provides immunity from liability, absent negligence, wantonness, recklessness, or deliberate misconduct, for the pharmacy utilizing this system and also will be immune from liability to any third-party unless the pharmacy violates a provision of this law. The Georgia Bureau of Investigation is provided real-time access to records on the logging system through an on-line portal to law enforcement agencies in the State. Purchasers of these products are to provide their full name, address and a government-issued photographic identification. The bill also establishes that it is unlawful for any person to possess nine (9) grams of ephedrine or pseudoephedrine (more than 300 pills). As it was described in the committees which heard this legislation, Georgia will not be required to pay for this tracking system; its costs will be borne by the manufacturers of the products – this real-time system is an attempt to stem the proliferation of "meth" labs and such products. Governor Deal signed this bill as **Act Number 392** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 783, by Bruce Broadrick (R-Dalton), is the annual dangerous drug update in Title 16. A House Floor amendment by Rep. Allen Peake (R-Macon) attempted to makes it unlawful for a manufacturer of low THC oil to ship directly to a person registered with the Department of Public Health and add additional conditions where the low THC oil could be used (this was the medical cannabis initiative which had been a part of HB 722 also by Rep. Peake). That amendment was stripped from the legislation in final passage. In the final legislation, in addition to the annual drugs added to Georgia's dangerous drug list, the legislation contains:

- The creation of a new subsection (b.1) in O.C.G.A. § 16-13-71 adding a "restricted dangerous drug" which is "any other drug or substance declared by the General Assembly to have no medical use, which cannot be legally prescribed by a practitioner, and which cannot be manufactured, grown, produced, distributed, used or otherwise

possessed in this State; to include any of the following drugs, chemicals, or substances: salts, isomers, esters, ethers, or derivatives of such drugs, chemicals, or substances which have essentially the same pharmacological action; and all other salts, isomers, esters, ethers, and compounds of such drugs, chemicals, or substances unless specifically exempted, identified as "restricted dangerous drugs;" (1) salvinorin A; and salvia divinorum – except as otherwise provided for in paragraph 4.3 of Code Section 16-13-72."

- Adds a new subsection (e), regarding violations of the "Dangerous Drug Act" in O.C.G.A. § 16-13-79, so as to make it a misdemeanor if a person "knowingly distributes or resells any non-prescription injectable insulin product which was first obtained through an over-the-counter sale made to a patient from any pharmacy, practitioner, or other source."

Governor Deal signed HB 783 as **Act Number 603** on May 3, 2016; the changes took effect upon signature of the Governor.

HB 815, by Rep. Trey Rhodes (R-Greensboro), provides for the inspection and regulation of avian meat products and facilities related to the processing of such products for human consumption. It amends the definition of "nontraditional livestock" found at O.C.G.A. § 26-2-62(13.1), adding that "any avian species which are grown commercially for slaughter and preparation as human food but are not amenable to the Federal Poultry Products Inspection Act; provided, however, that such term shall not include any such avian species raised for recreational purposes which are not sold at wholesale or retail." It further amends O.C.G.A. § 26-2-64 so that "consistent with the Federal Meat Inspection Act, 21 U.S.C. Section 601, et seq., the Commissioner may exercise concurrent jurisdiction with the secretary of agriculture of the United States and may enforce this article and any regulations promulgated pursuant thereto without regard to licensing agency." It eliminates the consumer protection division field force sanitarian to supervise and enforce O.C.G.A. § 26-2-106 at (c). Governor Deal signed this legislation as **Act Number 451** on April 26, 2016. These changes take effect on July 1, 2016.

HB 886, by Rep. Sharon Cooper (R-Marietta), addresses the employing of the mails or common carriers to sell, distribute, and deliver prescription drugs in O.C.G.A. § 26-4-60. This legislation came about after the State Board of Pharmacy proposed regulations which were more stringent than the law. In this legislation, a specialty pharmacy is to use a shipping method as appropriate and in accordance with the standards of the manufacturer, United States Pharmacopeia and Federal Drug Administration and other recognized standards. The shipping method may include the use of temperature tags, time temperature strips, insulated packaging, or a combination of these. Under the current law that permits an institution to sell, distribute, or deliver prescription drugs, upon the individual's request, to an enrollee in a health benefits plan of a group model health maintenance organization or its affiliates by a pharmacy which is operated by that same group model health maintenance organization and licensed under O.C.G.A. § 26-4-110 or to a patient on behalf of a pharmacy, and that section of the law remains. It does require that the pharmacy comply with the rules and regulations of the State Board of Pharmacy regarding delivery by mail, including special conditions on the mailing of

certain drugs and if necessary, restriction from delivery of certain substances by mail. It also prohibits the State Board of Pharmacy from promulgating a list of medications which may not be delivered by the mails or other common carriers. If, however, the State Board of Pharmacy bans a medication from being sold in Georgia, either over the counter or otherwise, then the medication is not to be delivered by mail. It also clarifies that "nothing herein shall require a dispensing pharmacy to deliver by mail those medications which, in the professional opinion of the dispensing pharmacist, may be clinically compromised by distribution through the mail or other common carriers." Independent community-based pharmacies have long opposed permitting mail order of medications. Governor Deal signed this bill as **Act Number 468** on April 27, 2016. This legislation takes effect on July 1, 2016.

HB 900, by Rep. Sharon Cooper (R-Marietta), amends the existing law regarding the electronic database for prescription information in Part 2 of Article 2 of Chapter 13 of Title 16. It now requires that prescription information in the electronic database is to be kept for two years (rather than one year) in O.C.G.A. § 16-13-59(e). It changes confidentiality, use of the data, and security program in O.C.G.A. § 16-13-60 and also allows a prescriber's or dispenser's staff, so delegated; permits the release of information to local or state law enforcement or prosecutorial officials pursuant to the issuance of a search warrant from an appropriate court or official in the county in which the office of such law enforcement or prosecutorial officials are located or to federal law enforcement or prosecutorial officials pursuant to the issuance of a search warrant pursuant to 21 U.S.C. or a grand jury subpoena pursuant to 18 U.S.C.; and to the agency, Composite Medical Board or any other state regulatory board governing prescribers or dispensers in Georgia or the Department of Community Health for purposes of the State Medicaid program upon the issuance of a subpoena by such agency, board or department pursuant to their existing subpoena power or to the federal Centers for Medicare and Medicaid Services upon the issuance of a subpoena by the federal government pursuant to its existing subpoena powers. It adds in (c)(1) of this Code Section that the individual authorized to access this electronic data base prescription information may communicate concerns about a patient's potential misuse, abuse, or under-utilization of a controlled substance with other prescribers and dispensers involved in the patient's health or report potential violations to the agency for review or investigation. The legislation also outlines what the agency may do following such review or investigation (including refer the information to the patient's primary prescriber; refer to appropriate authorities if there are probable violations of controlled substances being acquired for illegal distribution and not for the patient's use; or refer probable violations by prescribers or dispensers to regulatory boards). There are also changes made in O.C.G.A. § 16-13-63 regarding liability adding that a dispenser or prescriber who acts in good faith is not to be held civilly liable for damages to any person in any civil or administrative action or criminally responsible for injury, death or loss to person or property for receiving or using information from the electronic database. Governor Deal signed this legislation as **Act Number 354** on April 26, 2016. The provisions of HB 900 take effect on July 1, 2016.

HB 916, by Dustin Hightower (R-Carrollton), addresses "The Pharmacy Audit Bill of Rights," and requires this audit also to be conducted for plans covered by Medicaid in O.C.G.A. § 26-4-118 by eliminating that exclusion in subsection (g) and prohibits recoupment of amounts due

as a result of scrivener or clerical errors and clarifies that such, in an of itself, does not constitute fraud in O.C.G.A. §49-4-151.1(a) and also in subsection (c) it permits a Medicaid provider the ability to have a hearing on any attempted withholding of reimbursement or recoupment. It also adds a new Code Section at O.C.G.A. § 50-1-10 adding that "no State agency that provides recoupment or reimbursement to another entity shall establish any rules that would require full recoupment or withholding of reimbursement for any clerical or record-keeping error, including but not limited to a typographical error, scrivener's error, or computer error; any unintentional error or omission in billing, coding or required documentation; or any isolated instances of incomplete documentation by the entity." Claims for criminal penalties require that intent to commit fraud must be shown. It allows an entity 30 days following notice of an error, omission, or incomplete documentation identified pursuant to an audit or review process in which to correct such error or omission or to complete such documentation. Governor Deal **vetoed** this bill on May 3, 2016 as **Veto Number 10**. His message stated: "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."

HB 926, by Rep. Bruce Broadrick (R-Dalton), requires third-party logistics providers to be licensed by the Georgia State Board of Pharmacy in O.C.G.A. § 26-4-5. Language is also added in O.C.G.A. § 26-4-43 permitting a temporary pharmacy license to be issued to a service member, as defined in O.C.G.A. § 26-4-44.2, for a period of six months and also allows a temporary pharmacy license for individuals who have accepted a pharmacy resident position in Georgia (they may have such license if they meet the examination requirement for licensure). It also addresses requirements for the compounding of drug products and their use in a practitioner's office so that they may only be compounded by outsourcing facilities which conform to federal laws in O.C.G.A. § 26-4-86. It also establishes a drug supply chain security process. At O.C.G.A. § 26-4-113(b), it addresses wholesale distributors' licensing requirements adding the outsourcing facility and third-party logistics provider, making it unlawful for these entities (along with a manufacturer, wholesale distributor, and reverse drug distributor) to distribute or deliver drugs or devices to or receive drugs or devices from any person or firm in Georgia which is not licensed. The legislation does contemplate out-of-state firms conducting intracompany transfers of drugs or devices and when they are licensed in the State in O.C.G.A. § 26-4-115. The Board of Pharmacy is also to establish rules and regulations relating to drug supply chain security "based on requirements of Section 360eee, et seq., of the federal act which are not inconsistent with, more stringent than, or in addition to any requirements applicable under Section 353(e) or Section 360eee of the federal act or any regulations issued thereunder and which are not inconsistent with any waiver, exception, or exemption pursuant to Section 360eee, et seq., of the federal act or any restrictions specified in Section 360eee-1 of the federal act." Governor Deal signed this legislation as **Act Number 620** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 402, by Sen. Jeff Mullis (R-Chickamauga), addresses the proliferation of narcotic treatment programs. This legislation creates, at O.C.G.A. § 26-5-21, the State Commission on Narcotic

Treatment Programs composed of three members of the House of Representatives; three members of the Senate; and five members appointed by the Governor (which includes the Commissioners, or their designees, from the Departments of Community Health and Behavioral Health and Developmental Disabilities; three who represent a "cross section of interests of narcotic treatment program owners, pharmacists, and law enforcement"). This Commission is to perform various functions by December 31, 2016 including: (1) examine the current licensure requirements for these centers; (2) assess current licensure requirements and enforcement of those requirements and how they meet the purpose of providing adequate medical, counseling, vocational, educational, mental health assessment, and social services to patients enrolled in such programs and how those programs can be assessed for meeting the narcotic treatment program goal of the individual achieving recovery; (3) determine if the geographic service areas are reasonable and based on an optimal balance between population density and service proximity and whether the sociodemographic in the service area and the projected population to receive services are being considered; (4) determine cause and effect of hospital admittance for overdose and incidents of suicide; determine legislative changes needed to be made to licensure requirements of these programs or to address other concerns raised in the study; and solicit expert testimony on the efficacy of nonnarcotic, medically assisted treatments for narcotic dependence. The legislation also imposes a temporary moratorium on new applications for licensure of these programs through June 30, 2017. The Commission is to be abolished on January 1, 2017. Governor Deal signed SB 402 as **Act Number 343** on April 26, 2016. The Act takes effect on June 1, 2016.

Guardian and Ward

HB 954, by Rep. Chuck Efstration (R-Dacula), enacts the "Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act" in a new Chapter 11 of Title 29. It includes that it allows a Georgia court to treat a foreign country as if it were a state for the purpose of applying this law in O.C.G.A. § 29-11-3. It also allows courts to communicate with one another and the parties to participate in the communications in O.C.G.A. § 29-11-4. At O.C.G.A. § 29-11-5, it permits, in a guardianship proceeding or conservatorship proceeding, that a court in Georgia may request the appropriate court in another state to do things – such as hold an evidentiary hearing; order a person to produce evidence; order an evaluation or assessment to be made of the respondent; order any appropriate investigation of a person involved in a proceeding; forward transcripts or other records of a hearing; issue an order to assure the appearance of a person whose presence is necessary for the court to make a determination; and issue an order authorizing the release of medical, financial, criminal, or other relevant information (including protected health information). It adds in O.C.G.A. § 29-11-12 that a court in Georgia has jurisdiction to appoint a guardian or issue a conservatorship order for a respondent under certain conditions and in O.C.G.A. § 29-11-13 if such jurisdiction is lacking, then the court may 1) appoint a guardian in an emergency for a term not to exceed 90 days for a respondent who is physically present in Georgia; 2) issue a conservatorship order with respect to real or tangible personal property locate in Georgia; or 3) appoint a guardian or conservator for an incapacitated person or protected person for whom a provisional order to transfer the proceeding from another state has been issued. It does permit a court to decline jurisdiction to appoint a guardian or conservator if it determines that a court

of another state is a more appropriate forum in O.C.G.A. § 29-11-5. Governor Deal signed this initiative as **Act Number 486** on April 27, 2016. This Act takes effect on July 1, 2016.

Handicapped

HB 768, by Lee Hawkins (R-Gainesville), creates Georgia's ABLE ("Georgia Achieving a Better Life Experience Act") law in Chapter 9 of Title 30 and permits parents of disabled children to establish tax-free accounts, much like a 529 education account, so that those moneys may be used for that disabled individual's future needs including healthcare, education, and housing. To be eligible, an individual must be diagnosed with a disability before he or she reaches the age of 26, and either receive federal benefits under the Supplemental Security Income (SSI) or Social Security Disability Insurance (DI) programs, or receive a disability certification under pending IRS rules. At O.C.G.A. § 30-9-4, it establishes the Georgia ABLE Program Corporation for the purposes of establishing and administering the Program. At O.C.G.A. § 30-9-5, it permits this board of the Georgia ABLE Program Corporation to establish the Program and permit a person to make contributions for a taxable year for the benefit of an "eligible individual to an ABLE account" for the purpose of meeting the qualified disability expenses of the designated beneficiary of the ABLE account. Only one ABLE account may be established for each "eligible individual." It permits the Georgia ABLE Program Corporation the ability to enter into an agreement with another state which allows the residents of such state to participate under the Georgia ABLE Program; enter into an agreement with one or more states or a consortium of states that has a qualified ABLE program to allow residents of Georgia to participate in the qualified ABLE program of such other state, states or consortium; or facilitate or otherwise provide access to allow residents of Georgia to participate in qualified ABLE programs operated by other states. O.C.G.A. § 30-9-7 outlines the participation agreements which are required and their terms and conditions (including that they must follow Section 529A of the Internal Revenue Code) – these participation agreements may be amended. The board is also authorized to create the Georgia ABLE Program Trust Fund in O.C.G.A. § 30-9-8 (it will receive and hold all payments, contributions, and deposits but such will not constitute property of the State and those funds may not be commingled with other State funds). This trust fund will be housed with the Office of the State Treasurer. The board is also granted authority to establish a comprehensive investment plan for the moneys placed in the trust fund. If the trust fund is established, the board is to prepare an annual report at the close of each fiscal year which in turn will be submitted to the Governor, President of the Senate and Speaker. At O.C.G.A. § 30-9-13, the Departments of Community Health, Behavioral Health and Developmental Disabilities, Human Services, Education, and Georgia Vocational Rehabilitation Agency are to "assist, cooperate, and coordinate with the corporation in the provision of public information and outreach for a board approved Qualified ABLE Program." Upon the death of a beneficiary of a Georgia ABLE Trust Fund account, the Department of Community Health and the Medicaid program for another state may file a claim for the total amount of medical assistance provided for the designated beneficiary under the Medicaid program after the date of the establishment of the ABLE account, less any premiums paid by or on behalf of the designated beneficiary to a Medicaid buy-in program. An ABLE account is not to be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise be subjected to alienation, sale, transfer, assignment,

pledge, encumbrance or charge in O.C.G.A. § 30-9-15. Confidentiality and disclosure of information contained in these records is addressed in O.C.G.A. § 30-9-16. O.C.G.A. § 48-7-27, concerning computation of taxable net income, is change at (b) adding a new paragraph to address qualified withdrawals from an ABLE account which will not be subject to State income tax. For withdrawals other than qualified withdrawals from an ABLE account, the portion of earnings in the account balance at the time of the withdrawal is to be applied to the total funds withdrawn to determine the earnings portion to be included in the designated beneficiary's taxable net income in the year of withdrawal. Many groups supported and championed this legislation including the Georgia Council on Developmental Disabilities, Downs Syndrome Association of Atlanta, Easter Seals and others. Governor Deal signed HB 768 as **Act Number 519** on May 3, 2016. This Act took effect upon signature.

Health

HB 34, by Rep. Mike Dudgeon (R-Johns Creek), creates a new Chapter 52 in Title 31 to enact the "Georgia Right to Try Act." It allows patients greater access to experimental treatments and drugs which have not received full Federal Drug Administration approval. There are eligibility requirements outlined – including that the patient be required to have a terminal illness which must be documented in writing. Patients and physicians must sign written informed consent agreements (which is to include that the patient understand that his or her health plan is not obligated to pay for the investigational drug, biological product or device or any care or treatment consequent to the use of such drug, product or device unless that health benefit plan is specifically required to do so by law or contract as well as a description of the potential and worst outcomes for using such investigational drug, biological product or device and a realistic description of the most likely outcome). The health benefit plan or government agency providing coverage for the cost of this type of care may be provided; although, it is not mandated. The Composite Medical Board is also not to revoke, suspend, sanction, fail to renew, or take other action against a physician's license solely based on that physician's recommendation, prescription or treatment of an eligible patient with an investigational drug, biological product, or device. The initiative also speaks to liability – it does not create a private cause of action against a manufacturer of such investigational drug, biological product, or device or a private cause of action against a physician who refuses to recommend such investigational drug, biological product or device. At least 20 other states have passed similar laws. This bill was a priority of the American Cancer Society. Governor Deal signed this bill as **Act Number 422** on April 26, 2016. The legislation takes effect on July 1, 2016.

HB 219, by Rep. Jeff Jones (R-Brunswick), concerns the regulation of swimming pools in the State. It exempts swimming pools which are part of a condominium association or townhome from certain regulatory requirements in O.C.G.A. § 31-45-12. It does permit country clubs, subdivisions with pools, condominium associations with pools, or townhomes with pools to request the county board of health to inspect the common area pool. Further, if the owner makes the request and receives the report, then that report is informational and no fines, fees, charges or other penalties, monetary or otherwise, will be assessed with regard to that inspection or report. Changes are also made in O.C.G.A. § 31-45-13 so that the provisions of Chapter 45 shall not apply to those counties where local rules and regulations governing public

swimming pools were in effect on December 31, 2000. A county can still adopt an ordinance or resolution regarding public swimming pools that applies to apartment complex pools. At (b) in this Code Section, it permits a country club, subdivision, condominium association, or townhome in a county generally exempted from Chapter 45, which is part of a complex containing a common area pool with a bather or load capacity of 75 or fewer people to *elect* to be governed solely under the provisions of this Chapter by providing written notice to the Department of Public Health and the county board of health; provided, however, that no such election is to be made by the condominium association or townhome complex unless such is controlled by the owners of the individual dwelling therein. The election to have the inspection by the applicable board of health once yearly; the inspection though shall occur 30 days prior to the seasonal opening for such common area pool not operated continuously throughout the year. Inspections are limited to: compliance with federal law regarding suction outlet covers; availability of lifesaving and rescue equipment to the extent required by local ordinance; security of access to the common area pool; water quality; and adequacy of electrical systems. Failure to meet the inspection standards requires the Department to suspend operations until there is a follow-up inspection to confirm that the standards are met (follow up is limited to only on those matters which failed previously). A notice is also to be posted in a "conspicuous location" until operations resume. The county board of health is permitted to charge an inspection fee which is not to exceed the "usual and customary rate" and also may charge for follow up inspections. This election is to remain in place until the country club, subdivision, condominium association or townhome rescinds such; once rescinded, the pool will be governed by applicable local ordinances. However, Governor Deal **vetoed** this measure as **Veto Number 4** on May 3, 2016. He raised concerns that the swimming pools being exempted were frequented by children and families and he noted that having these facilities inspected was just as important as having public health inspections of restaurants where Georgians eat. The exemption, according to the Governor, would potentially increase rates of injury and disease outbreak.

HB 509, by Rep. Jesse Petrea (R-Savannah), creates in O.C.G.A. § 31-7-190 et seq. the Georgia Palliative Care and Quality of Life Advisory Council within the Department of Community Health. The Senate changed the way in which Council members are appointed. Appointments will now include the chairpersons of the House and Senate Health Committees; two members appointed by the Speaker; two members appointed by the President of the Senate; and three members appointed by the Governor. The Senate felt the need to have greater legislative oversight. The legislation states that membership on the Council is to include health professionals who have palliative care work experience or expertise in palliative care delivery models in a variety of inpatient, outpatient and community settings. Those making appointments are to "coordinate their appointments" so that the Council includes interdisciplinary palliative care medical, nursing, social work, pharmacy, and spiritual professional expertise; patient and family caregiver advocate representation; and relevant appointees from the Department or other State entities or councils. The preference is to have at least two Council members who are board certified hospice and palliative medicine physicians or nurses. It also establishes a statewide Palliative Care Consumer and Professional Information and Education Program within the Department to maximize effectiveness of palliative care initiatives. These resources are to be published on the Department's website.

Governor Deal signed HB 509 as **Act Number 342** on April 26, 2016. The legislation takes effect on July 1, 2016.

HB 775, by Rep. Earl Ehrhart (R-Powder Springs), implements a new Code Section at O.C.G.A. § 31-12-12 to provide restrictions on the sale and dispensing of spectacles and contact lenses in the State. It adds in (b) that no person in Georgia shall sell, dispense, or serve as a conduit for the sale or dispensing of contact lenses or spectacles to the ultimate user of such contact lenses or spectacles except persons licensed and regulated by Chapter 29, 30, or 34 of Title 43; no person in Georgia is to write a prescription for contact lenses or spectacles except persons licensed and regulated by Chapter 30 or 34 of Title 43; and no person in Georgia is to write a prescription for contact lenses or spectacles unless an in person eye examination is performed (this does include telemedicine) and the prescription is to take into consideration any medical findings and any refractive error discovered during the eye examination. The legislation sets up penalties for violations. Governor Deal signed this initiative as **Act Number 615** on May 3, 2016. This Act takes effect on July 1, 2016.

HB 853, by Rep. Lee Hawkins (R-Gainesville), addresses Georgia's "Coverdell-Murphy Act" in Article 6 of Chapter 11 of Title 31. It updates the current system of levels of certified stroke centers, reflecting advances in stroke treatment and therapy. Stroke is the fifth leading cause of death and the number one cause of disability with an estimated 800,000 new and recurrent strokes annually in the United States. This legislation requires, rather than two levels, at least three levels of stroke centers be established (comprehensive, primary and remote). It also adds in O.C.G.A. § 31-11-112 that the Department of Public Health is to identify hospitals that meet the criteria as comprehensive, primary or remote treatment stroke centers and the Department is authorized to establish one or more additional levels of stroke centers, in consultation with the Georgia Coverdell Acute Stroke Registry. National healthcare accreditation is required for these entities so designated. At O.C.G.A. § 31-11-114, language is added so that the Department of Public Health is required annually to prepare and submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the chairpersons of the House Committee on Health and Human Services and the Senate Health and Human Services Committee for distribution to its committee members a report which outlines the numbers of hospitals which have applied and been awarded grants and the amounts of any grants awarded to those grantees. In current law in O.C.G.A. § 31-11-116, it enumerates the data that these stroke centers are to provide to the Department of Public Health; this language is stricken from the Code and in its place it allows the Department to determine what data that these stroke centers are to report annually. Governor Deal signed this legislation as **Act Number 459** on April 26, 2016. The legislation took effect upon signature of the Governor and requires that the Department commence its rule making process to effect these provisions no later than June 30, 2016.

HB 885, by Rep. Jan Jones (R-Milton), repeals O.C.G.A. § 31-3-2.1. This eliminates the option for certain counties to create a county board of health and wellness by ordinance. Fulton County is the sole county taking this option. Governor Deal signed this bill as **Act Number 467** on April 27, 2016. The Act took effect upon approval by the Governor; provided, however, that for any county board of health and wellness "established by county

ordinance pursuant to the former provisions of Code Section 31-3-2.1 and which is still in existence as of the effective date of this Act, the members of such board shall remain in office and such board shall remain in existence until a county board of health is constituted pursuant to Code Section 31-3-2 for such county or until June 30, 2017, whichever occurs first."

HB 897, by Rep. Betty Price, MD (R-Roswell), re-establishes a drug repository program within the Department of Public Health for the purpose of accepting and dispensing unused over-the-counter and prescription drugs that are donated (by individuals, drug manufacturers, wholesalers, reverse distributor pharmacies, third-party logistics providers, government entities, hospitals, or health care facilities). It further repeals the "Utilization of Unused Prescription Drugs Act" at Article 11 of Chapter 4 of Title 26 and adds the new language at Article 10 of Chapter 8 of Title 31. A patient eligible for the drugs in the program would be "an individual who is indigent, uninsured, underinsured, or enrolled in a public assistance health benefits program, in accordance with criteria established by the Department of Public Health" pursuant to O.C.G.A. § 31-8-304. It further adds that "other individuals may be considered eligible patients if the need for donated drugs for indigent, uninsured, underinsured, and public assistance health benefits' program patients is less than the supply of donated drugs." The medications may not be re-sold. Governor Deal signed this bill as **Act Number 471** on April 27, 2016. This Act takes effect on July 1, 2016.

HB 902, by Rep. Katie Dempsey (R-Rome), adds a new Code Section at O.C.G.A. § 31-7-21 to require that each assisted living facility community annually provide to each of its residents, no later than September 1 of each year, education information about influenza disease (including risks, availability, effectiveness and known contraindications of the immunization). It does not require that the assisted living community provide or pay for any vaccination against influenza for its residents. It also states that no person will have a cause of action for any loss or damage caused by any act or omission resulting from providing or not providing this educational information. Governor Deal signed this legislation as **Act Number 473** on April 27, 2016. This Act takes effect on July 1, 2016.

HB 979, by Rep. Johnnie Caldwell, Jr. (R-Thomaston), addresses aggravated assault offenses in O.C.G.A. § 16-5-21(n), adding that an individual who "knowingly commits the offense of aggravated assault upon an emergency health worker while the worker is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years." Similar language is also included for "aggravated battery" offenses in O.C.G.A. § 16-5-24(i), adding that the incarceration penalties for such crimes are to be not less than five years nor more than 20 years. These workers include hospital emergency department personnel and emergency medical services personnel. The legislation came about as a result of a Joint Study Committee and recommendations made in 2014 (SR 981). Governor Deal signed this initiative as **Act Number 492** on April 28, 2016. The Act takes effect on July 1, 2016.

HB 1037, by Rep. Valerie Clark (R-Lawrenceville), adds a new Code Section at O.C.G.A. § 31-2-14. It amends and expands the requirements that the Department of Community Health is to maintain a "nurse aide registry," as required by 42 C.F.R. Section 483.156 and is to

include in addition to nurses aides who work in licensed facilities, nurse aides who provide services in Georgia in temporary or permanent private residences. This registry is to be posted on the Department's website. Further, this registry is to provide a method for an inquiry or complaint to be submitted by the public regarding a nurse aide who is providing services in a private residence – those inquiries or complaints are to be handled like nurse aides who work in licensed facilities. Governor Deal signed this bill into law as **Act Number 353** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 1043, by Rep. Trey Kelley (R-Cedartown), addresses how hospitals and health systems may offer influenza vaccines at offsite locations (such as at employers' sites). It requires a pharmacist or a nurse to take "an appropriate" case history when determining the administration of a vaccine in O.C.G.A. § 43-34-26.1. Previously, nurses and pharmacists had to take "a complete" case history. The bill also creates an exemption so that hospitals and health systems can administer the flu vaccine if certain conditions are met. An Amendment was added by Sen. Renee Unterman (R-Buford) and Sen. Judson Hill (R-Marietta) addressing the specialty and subspecialty advertising of physicians – this had been language from Sen. Hill's SB 385 which previously passed out of the Senate. The House agreed to the added language addressing requirements by physicians to advertise their specialties and subspecialties in O.C.G.A. § 43-34-22.1 so that no physician is to advertise or hold himself or herself out to the public in any manner as being certified or board certified in any specialty or subspecialty by a public or private board unless:

(1) The advertisement or publication states the full name of the certifying board; and
(2) Such certifying board either: (A) is a member of the American Board of Medical Specialties or the American Osteopathic Association; or (B) requires successful completion of a postgraduate training program approved by the Accreditation Commission for Graduate Medical Education or the American Osteopathic Association that provides complete training in the specialty or subspecialty certified, followed by prerequisite certification by the American Board of Medical Specialties or the American Osteopathic Association board for that training field, and further successful completion of an examination in the specialty or subspecialty certified.

Governor Deal signed HB 1043 as **Act Number 332** on April 26, 2016. The Act takes effect on July 1, 2016.

HB 1058, by Rep. Betty Price, MD (R-Roswell), addresses control of venereal disease in O.C.G.A. § 31-17-4.2(d) as it relates to HIV pregnancy screening and requires that a woman be notified of the test to be conducted and allows her the opportunity to refuse such test. The pregnant woman is to submit to an HIV test and a syphilis test unless she specifically refuses. Further, it addresses consent of a minor to medical or surgical care or services in O.C.G.A. § 31-17-7(a) which states that: "The consent to the provision of medical or surgical care or services by a hospital or public clinic or to the performance of medical or surgical care or services by a physician licensed to practice medicine and surgery, when such consent is given by a minor who is or professes to be afflicted with a venereal disease or at risk for HIV shall be as valid and binding as if the minor had achieved his or majority, provided that any such

treatment shall involve procedures and therapy related to conditions or illnesses arising out of the venereal disease or HIV diagnosis which gave rise to the consent authorized under this Code section." The provision causing questions, in the Senate, related to O.C.G.A. § 24-12-21(c) addressing disclosure of AIDS confidential information which now reads: "AIDS confidential information shall be disclosed to the person identified by that information or, if that person is an incompetent person, to that person's legal guardian. AIDS confidential information may be disclosed to such person's parent or legal guardian if that person is a minor." Governor Deal signed this bill as **Act Number 568** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 230, by Sen. Chuck Hufstetler (R-Rome), provides for the enactment of the "Uniform Emergency Volunteer Health Practitioners Act" in Article 11 of Chapter 3 of Title 38. The legislation defines "emergency" as an "event or condition that is deemed a state of emergency or disaster under Code Section 38-3-51, a public health emergency under Code Section 31-12-1.1, a local emergency under Code Section 36-69-2, or an emergency declared by a state entity or official or by a federal entity or official, if such emergency includes the State of Georgia, under any other provision of Georgia or federal law." A "volunteer health practitioner" is a health practitioner who provides health services or veterinary services at no charge to the patients in an emergency so long as the health practitioner does not receive compensation in direct relation to those specific services. It does "not include a health practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires such health practitioner to provide such health services to patients of such host entity or affiliate, unless such health practitioner is not a resident of this State and is employed by a disaster relief organization providing health services in this State while an emergency declaration is in effect." The legislation further requires in O.C.G.A. § 38-3-163 that a "host entity" using these volunteers "consult and coordinate its activities with the Georgia Emergency Management Agency, consistent with the Georgia Emergency Operations Plan, to provide for the efficient and effective use of volunteer health practitioners and comply with the laws of this State relating to the management of emergency health services or veterinary services." It establishes a "registration system" in O.C.G.A. § 38-3-164 – which will include information about the health practitioners' licensure. At O.C.G.A. § 38-3-167, it requires that a volunteer health practitioner adhere to his or her scope of practice for similarly licensed volunteer health practitioner, with limited exceptions. O.C.G.A. § 38-3-170 provides immunity from liability for these practitioners providing such services under certain conditions. Governor Deal signed this measure as **Act Number 403** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 273, by Sen. Dean Burke, MD (R-Bainbridge), addresses licensing of clinical laboratories in O.C.G.A. § 31-22-1(2). It clarifies that a "clinical laboratory" is not a laboratory which is "nondiagnostic only and regulated pursuant to the federal Clinical Laboratory Improvement Amendments (CLIA) whose sole function is to perform examination of human blood or blood components intended as source material for the manufacture of biological products." Thus, those laboratories which are federally regulated will not be State regulated and subject to State licensure. Governor Deal signed this bill into law as **Act Number 406** on April 26, 2016. This change takes effect on July 1, 2016.

SB 305, by Sen. Renee Unterman (R-Buford), amends O.C.G.A. § 31-1-14(b), the provisions relating to the Physician Orders for Life-Sustaining Treatment (POLST) forms. These forms are developed by the Department of Public Health and this legislation requires that on and after July 1, 2016 that the Department is to notify the chairs of the House Committee on Health and Human Services and Senate Health and Human Services Committee at least sixty (60) days in advance before implementing any modifications to these POLST forms. These forms are used by patients and their physicians to carry out a patient's end-of-life decisions. Governor Deal signed SB 305 as **Act Number 570** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 308, by Sen. Renee Unterman (R-Buford), adds a new Article 2 in Chapter 2A in Title 31 to create the "Positive Alternatives for Pregnancy and Parenting Grant Program." The initiative promotes families and gives grants to nonprofit organizations which provide pregnancy support services. There are no requirements included to provide women with education or information for women seeking abortion alternatives. This program is to be overseen by the Department of Public Health which will develop the annual grant application process; evaluate grant applications; make recommendations, communicate acceptance or denial of grant applications to direct client service providers; monitor the compliance; maintain records for each grant applicant and award; and coordinate activities and correspondence between the Department and direct client service providers. Services to be funded include: medical care and information (including but not limited to pregnancy tests, sexually transmitted infection tests, other health screening, ultrasound service, prenatal care and birth classes and planning); nutritional services and education; housing, education, and employment assistance during pregnancy and up to one year following a birth; adoption education, planning and services; child care assistance if necessary for a client to receive pregnancy support services; parenting education and support services for up to one year following a birth; material items (e.g. cribs, car seats, clothing, formula, etc.); and information regarding health care benefits (e.g. available Medicaid coverage for the client for pregnancy care and that will provide coverage for the child upon birth). There are requirements outlined in O.C.G.A. § 31-2A-36 for entities which are being considered for such grant – such as the entity is required to be a nonprofit organization with tax-exempt status and have a primary mission of promoting healthy pregnancy and childbirth. The providers are to maintain accurate records and report that information to the Department on forms (information to be reported will include numbers who utilized pregnancy support services, numbers who are pregnant, numbers who chose adoption, etc.). The Department is to annually report to the General Assembly on its use of the funds no later than September 30 beginning September 30, 2017. There is a provision at O.C.G.A. § 31-2A-41, allowing the Department to accept donations, contributions, and gifts and to receive, hold and use grants, devises and bequests of real, personal and mixed property on behalf of the State to carry out these functions. These funds will be placed into the Indigent Care Trust Fund found at O.C.G.A. § 31-8-150 et seq. In the FY 2017 Budget, $2 million in State funds were included for this program. See HB 751. Governor Deal signed this bill into law as **Act Number 360** on April 26, 2016. This Act takes effect on July 1, 2016.

Insurance

HB 193, by Rep. Carl Rogers (R-Gainesville), prohibits insurers from terminating or penalizing an agent for advising a policy holder about the alternatives to surrendering his or her life insurance policy. It adds in O.C.G.A. § 33-25-15 that no insurer or any other person "shall terminate, fine, or otherwise penalize an agent for: (1) apprising a policy owner or his or her designee of options under the policy terms to the lapse or surrender of the policy; or (2) assisting a policy owner with securing any benefits under the policy terms." Governor Deal signed this measure into law as **Act Number 357** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 402, by Rep. Eddie Lumsden (R-Armuchee), provides in O.C.G.A. § 33-9-40.3 for a five (5) percent discount on each workers' compensation policy, when such employer is certified by the State Board of Education to the State Board of Workers' Compensation as a work-based learning employer and is providing work-based learning opportunities for students ages 16 and older. It makes changes as well in Title 34 by creating a new Article 12 in Chapter 9 for this purpose and at O.C.G.A. § 34-9-431(b) outlines requirements for this employer certification (e.g. enters into a training agreement with one or more work based learning students, the student's parent, or guardian, and the school's work based learning coordinator; assigns a mentor to the student to assist in monitoring the progress of the student; and etc.). Governor Deal signed this bill as **Act Number 356** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 784, by Rep. John Carson (R-Marietta), amends O.C.G.A. § 33-6-4 to permit that insurers and insurance agents may advertise or conduct promotional programs and give items of value to their customers as long as those items do not exceed $100.00 in value per customer and that such actions will not be considered an unfair trade practice (gifts or items of value would include prizes, goods, wares, store gift cards, sporting event tickets, or merchandise). The giving of such item, or items, is contingent with the sale or renewal of a policy. Further, at O.C.G.A. § 33-9-36(f), it clarifies that such advertising or promotional gifts will not be considered as an unlawful inducement. Governor Deal signed HB 784 as **Act Number 444** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 866, by Rep. Shaw Blackmon (R-Bonaire), exempts all multiple employer self-insured health plans from paying premium taxes on the plan's net premium in O.C.G.A. § 33-50-3(c). There were questions concerning how much money would be lost to the State by providing this exemption; this change will cause a reduction in revenue of approximately $57,000 on an annual basis. Governor Deal signed this proposal into law as **Act Number 461** on April 27, 2016. This Act took effect upon its approval by Governor Deal.

HB 883, by Rep. Darlene Taylor (R-Thomasville), brings Georgia's insurance law relating to out-of-state liquidators of insurers in line with the National Association of Insurance Commissioners' (NAIC) accreditation standards and addresses ancillary receivership provisions so that the same liquidator may act in Georgia and other states in Chapter 37 of Title 33.

Governor Deal signed this initiative as **Act Number 607** on May 3, 2016. The legislation takes effect on July 1, 2016.

HB 884, by Rep. Darlene Taylor (R-Thomasville), amends O.C.G.A. § 33-3-9, concerning the requirement of additional deposits of securities by foreign and alien insurers, eliminating the requirement of securities eligible for investment of capital funds in amounts identified by the Commissioner. This portion was the language from HB 882 by Rep. Taylor. It clarifies that the deposits are to be held for the protection of the insurer's policyholders. It further amends O.C.G.A. § 33-56-3(a)(1)(D), concerning company action level events, preparation and submission of risk-based capital level plan, hearing, and out-of-state filing, adding that "if a health organization has total adjusted capital, which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the health RBC instructions." The changes in this legislation were requested by the Department of Insurance. Governor Deal signed HB 884 as **Act Number 466** on April 27, 2016. This Act takes effect on July 1, 2016.

HB 910, by Rep. Spencer Frye (D-Athens), revises Chapter 33 of Title 31 regarding the costs of copying and mailing of patients records and requires that such also apply to psychiatric, psychological, and other mental health records. It specifically adds this requirement in O.C.G.A. § 31-33-3(c). The amendment, requiring the electronic production of these records added by Sen. Bill Cowsert (R-Athens) in the Senate, was stripped out of the legislation prior to final passage. Governor Deal signed this bill as **Act Number 475** on April 27, 2016. This initiative takes effect on July 1, 2016.

HB 965, by Rep. Mike Cheokas (R-Americus), enacts "The Honorable Jimmy Carter Cancer Treatment Access Act." It creates a new Code Section at O.C.G.A. § 33-24-59.20 which prohibits a health benefit plan, which is issued, delivered, or renewed in Georgia and has a provision of hospital, medical, or surgical services, directly or indirectly covering the treatment of stage four advanced, metastatic cancer, from limiting or excluding from coverage a drug which is approved by the United States Food and Drug Administration by mandating that the insured individual is to first be required to fail to successfully respond to a different drug(s) or prove a history of failure of such drug or drugs. However, the use of such drug or drugs is to be consistent with best practices for the treatment of stage four advanced, metastatic cancer and is supported by peer-reviewed medical literature. Governor Deal signed HB 965 as **Act Number 489** on April 27, 2016. This Act takes effect on July 1, 2016.

SB 137, by Sen. Marty Harbin (R-Tyrone), expands the ownership restriction relating to the application of the value of the property covered by property insurance against loss by fire in O.C.G.A. § 33-32-5(a). It allows coverage when such policy is issued to a natural person or persons or to any legal entity wholly owned by a natural person or persons. This change will allow ownership of property by limited liability companies. Governor Deal signed this measure as **Act Number 365** on April 26, 2016. This legislation takes effect on July 1, 2016.

SB 158, by Sen. Dean Burke, MD (R-Bainbridge), is the result of a study committee which delved into health insurers' networks in 2015. This legislation creates a new Chapter 20C in Title 33, providing for registration of rental preferred provider networks which are defined as "a preferred provider network that contracts with a health insurer or other payor or with another preferred provider network to grant access to the terms and conditions of its contract with providers of health care services. Such contracts are often referred to as "renting" or "leasing" the network. The term 'rental preferred provider network' does not refer to a proprietary network of a licensed insurer or to arrangements providing for access to the proprietary network of a licensed insurer by affiliates of the licensed insurer or by entities receiving administrative services form the licensed insurer or its affiliates." At O.C.G.A. § 33-20C-2, it requires a person who commences a business as a rental preferred provider network register with the Commissioner of Insurance within 30 days of commencing such business – unless the person is already a licensed health insurer. If such rental preferred provider network is not licensed by July 1, 2016, then that entity is required to do so no later than September 30, 2016. The Commissioner will keep an "approved list" of these entities. At O.C.G.A. § 33-20C-5, it outlines when Chapter 20C of Title 33 will not apply – for instance, it will not apply to provider network contracts for services provided to Medicaid, Medicare, the State Health Benefit Plan or State Children's Health Insurance Program (SCHIP which is PeachCare for Kids®) beneficiaries. It will also not apply to employers, church plans, or government plans receiving administrative services from a rental preferred provider network or its affiliates or pharmacy benefits managers; circumstances where access to the provider network contract is granted to an entity operating under the same brand licensee program as the contracting entity; provision of medical services for injuries relating to workers' compensation (as outlined in Chapter 9 of Title 34); or self-funded, employer sponsored health insurance plans regulated by ERISA laws as codified and amended at 29 U.S.C. Section 1001, et seq. Governor Deal signed SB 158 as **Act Number 407** on April 26, 2016. This legislation takes effect on July 1, 2016.

SB 290, by Sen. Charlie Bethel (R-Dalton), clarifies those individuals who are not required to be licensed as an insurance agent in O.C.G.A. § 33-23-4(h)(2)(B) so that the following individuals do not need to be licensed:

- An attorney at law admitted to practice in Georgia, when handling the collections of premiums or advising clients as to insurance as a function incidental to the practice of law or who adjusts losses which are incidental to the practice of his or her profession;
- A salaried employee of a credit or character reporting firm or agency not engaged in the insurance business who may, however, report to an insurer; or
- A person who makes the salary deductions of premiums for employees or, under a group insurance plan, a person who serves the master policyholder of group insurance in administering the details of such insurance for the employees or debtors of the master policyholder or of a firm or corporation by which the person is employed and who does not receive insurance commissions for such service; provided, further, that an administration fee not exceeding five (5) percent of the premiums collected paid by the insurer to the administration office shall not be construed to be an insurance commission.

Governor Deal signed this legislation as **Act Number 374** on April 26, 2016. SB 290 takes effect on July 1, 2016.

SB 302, by Sen. P.K. Martin, IV (R-Lawrenceville), creates requirements for health insurers to provide electronic provider directories which are to be updated at least every 30 days. The new requirements are created in a new Chapter 20C in Title 33 and are the result of numerous discussions with insurers, consumers, and providers. In O.C.G.A. § 33-20C-2, the insurer is to post on its website a current and accurate electronic provider directory for each of its network plans – this information is to be in an easily accessible and standardized, downloadable, searchable and machine readable format. Print versions of these directories are to be made available upon request. At O.C.G.A. § 33-20C-3, the insurer is to include a telephone number and either a dedicated email address or a link to a dedicated webpage and covered persons or the general public may use such to report to the insurer any inaccurate information listed in the directory. Once an insurer receives a report of an inaccuracy, then the insurer is to investigate; no later than thirty (30) days of the report, the insurer is to either verify the accuracy of the information or update the information. The insurer is also to take appropriate steps to ensure the accuracy of the information concerning each provider listed on that insurer's directory no later than January 1, 2017 – after that point, the insurer is to conduct annual audits of a "reasonable sample size" of its provider directories for accuracy and retain documentation of these audits which would be available to the Commissioner of Insurance upon request. The insurer is to give notice to providers who have not submitted claims in a 12-month period to determine that provider's intent to continue in participating in that insurer's network. The provider then has thirty (30) days to make a response; if no response, the insurer is to remove the provider from the network. Prior to the provider's removal, the insurer may use other available information or means to determine if the provider is still participating in the insurer's network (e.g. contract). There are protections for the consumer: if the Commissioner finds that a covered person reasonably relied upon materially inaccurate information contained in an insurer's provider directory, the Commissioner may require the insurer to provide coverage for all covered health care services provided to the covered person and to reimburse the covered person for any amount that he or she would have paid had the services been delivered by an "in-network" provider under the insurer's network plan – however, the Commissioner is to take into consideration that insurers are relying on health care providers to report changes to their information prior to requiring any reimbursement to a covered individual. O.C.G.A. § 33-20C-4 outlines the information which the insurer is to make available in the directory. These provider directories will not be required for insurers under contract with the Department of Community Health for recipients of Medicaid, PeachCare for Kids® or State Health Benefit Plan. Governor Deal signed this bill as **Act Number 341** on April 26, 2016. The Act takes effect on July 1, 2016.

SB 347, by Sen. Charlie Bethel (R-Dalton), revises Chapter 41 of Title 33, concerning captive insurance companies and is the "Georgia Captive Insurance Company Act." Among the comprehensive revisions include:

- New definitions in O.C.G.A. § 33-41-2, including 'agency captive insurance' company which means: (A) an insurance company that is owned or controlled by an insurance agency, brokerage, managing general agent, or reinsurance intermediary, or an affiliate thereof, or under common ownership or control with such agency, brokerage, managing general agent, or reinsurance intermediary, and that only reinsures the risk of insurance or annuity contracts placed by or through such agency, brokerage, managing general agent, or reinsurance intermediary; or (B) an insurance company that is owned or controlled by a marketer, producer, administrator, issuer, or provider of service contracts or warranties and that only reinsures the contractual liability arising out of such service contracts or warranties sold through such marketer, producer, administrator, issuer, or provider."
- Changes that a captive insurance company, now permitted by its charter, will be permitted by its articles of incorporation to engage in the business of the following types of insurance casualty (excluding accident and sickness insurance – except for a pure captive insurance company which may engage in the business of accident and sickness insurance as defined in O.C.G.A. § 33-7-2); marine and transportation; property; and surety.
- Changes that a pure captive insurance company may only insure or reinsure the risks of its parent, affiliates of its parent and its controlled unaffiliated business. In current law, it is only permitted to insure or reinsure for its parent and affiliates of its parent.
- Eliminates the requirement in O.C.G.A. § 33-41-4(3) that a captive maintain its principal place of business in Georgia to be able to transact business here in the State.
- Provides that the Commissioner of Insurance, not the Secretary of State, is to approve the articles of incorporation of an applicant attempting to sue the name of a captive insurance company in O.C.G.A. § 33-41-6(a).
- Requires in O.C.G.A. § 33-41-8(a)(3) that an agency captive insurance company maintain at least $250,000.00 in surplus. It also permits in O.C.G.A. § 33-41-8(b) that in addition to a minimum capital or surplus of $500,000.00 be maintained in the form of cash, certificates of deposit (or some similar certificates of evidence of deposits in banks or trust companies and insured by the Federal Deposit Insurance Corporation), or savings accounts that they may also be held in forms of promissory notes or other obligations of shareholders secured by one or more letters of credit.
- Expresses requirements for letters of credit in O.C.G.A. § 33-41-9 be maintained.
- Outlines that captive insurance companies are not subject to publishing requirements (as outlined in O.C.G.A. § 33-3-16) in O.C.G.A. § 33-41-11(b).
- Grants the Commissioner of Insurance the authority to approve assets as "admitted assets" under O.C.G.A. § 33-41-12.
- Amends O.C.G.A. § 33-41-18, so that except as provided in O.C.G.A. § 33-41-8, "(1) risk retention group captive insurance companies, industrial insured captive insurance companies, and association captive insurance companies shall comply with the investment requirements contained in Article 2 of Chapter 11 of this title; and (2) pure captive insurance companies and agency captive insurance companies shall not be subject to any restrictions on eligible investments whatsoever, including those limitations contained in Chapter 11 of this title; provided, however, that the

Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of any such captive insurance company."

- Institutes that the Commissioner is to "impose minimum premiums upon association captive insurance companies which write motor vehicle liability insurance coverage required by law and do not participate in the Georgia Insurers Insolvency Pool."

Governor Deal signed this legislation as **Act Number 611** on May 3, 2016. The captive insurance company law changes take effect on July 1, 2016.

Labor and Industrial Relations

HB 216, by Rep. Micah Gravely (R-Douglasville), addresses compensation for occupational diseases in O.C.G.A. § 34-9-280, permitting a firefighter to show that based on a preponderance of the evidence that his or her cancer disease, otherwise considered an ordinary disease of life, is due to his or her performance of their duties as a firefighter. There were multiple hearings on this legislation as several other states permit firefighters the ability to obtain disability benefits when they are diagnosed with cancer. There was a struggle on the type of evidentiary test needed for the person to meet the requirements – whether it was the test of clear and convincing evidence or preponderance of the evidence. Many members of the General Assembly felt this benefit should be opened to more than just the firefighter profession. Governor Deal **vetoed** this legislation as **Veto Number 3** on May 3, 2016. In his veto message, Governor Deal expressed that he was 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." He also noted in his message the concerns raised by the Association County Commissioners of Georgia and Georgia Municipal Association. He further stated that "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."

HB 818, by Rep. Jason Shaw (R-Lakeland), is a series of Title 34 changes, relating to workers' compensation. Provisions addressed in this legislation are:

- It requires in O.C.G.A. § 34-9-47(c) that administrative law judges are subject to the Georgia Code of Judicial Conduct.
- It amends O.C.G.A. § 34-9-121(a), regarding the duty of an employer to insure itself so that "unless otherwise ordered or permitted by the board, every employer subject to the provisions of this chapter relative to the payment of compensation shall secure and maintain full insurance against such employer's liability for payment of compensation under this article, such insurance to be secured from some person, corporation, association, or organization licensed by law to transact the business of workers' compensation insurance in this state or from some mutual insurance association formed by a group of employers so licensed; or such employer shall provide the board with sufficient information for the board to make an adequate assessment of the employer's workers' compensation exposure and liabilities and shall further provide evidence

satisfactory to the board of such employer's financial ability to pay the compensation directly in the amount and manner and when due, as provided for in this chapter."

- It amends O.C.G.A. § 34-9-261 to increase the maximum rate of compensation for total disability allowed per week from $550.00 to $575.00.
- It increases the compensation for temporary partial disability in O.C.G.A. § 34-9-262, moving that maximum amount from $367.00 per week to $383.00 per week. It still only limits this period to 350 weeks or less from the date of injury.
- It amends O.C.G.A. § 34-9-265(d), concerning compensation for death resulting from injury and other causes, so that the total compensation payable to a surviving spouse as a sole dependent at the time of death and where there is no other dependent for one year or less after the death of the employee is not to exceed $230,000.00 (current law is $220,000.00).
- It amends the purpose of Article 10 of Chapter 9 of Title 34 to now read in O.C.G.A. § 34-9-380: "It is the purpose of this article through the establishment of a guaranty trust fund to provide for the continuation of workers' compensation benefits due and unpaid, excluding penalties, fines, and attorneys' fees assessed against a participant, when such participant becomes an insolvent self-insurer."
- It updates definitions for the Self Insurers Guaranty Trust Fund in O.C.G.A. § 34-9-381.
- It clarifies in O.C.G.A. § 34-9-382(a) that the Self-Insurers Guaranty Trust Fund assets are to be invested "only in obligations issued or guaranteed by the United States government." At (c), it clarifies that, as a condition of self-insurance, all private employers (except those who are precluded from membership) are to make application to and be accepted in the Self-Insurers Guaranty Trust Fund. At (d), it prohibits the following from participating in this Fund: "(1) any governmental employer authorized by the board to self-insure; (2) any employer who elects to group self-insure pursuant to O.C.G.A. § 34-9-152; (3) captive insurers (Chapter 41 of Title 33); (4) any employer, who pursuant to any reciprocal agreements or contracts of indemnity executed prior to March 8, 1960, created funds for the purpose of satisfying the obligations of self-insured employers under this chapter; or (5) any individual or company who: (A) enters into a contract or agreement with an employer under which the employer outsources its workers' compensation risks, responsibilities, obligations, or liabilities to such individual or company; and (B) pursuant to such contract or agreement, is required to provide workers' compensation benefits to an injured employee even though no common-law master-servant relationship or contract of employment exists between the injured employee and the individual or company providing the benefits."
- It permits that board of trustees of this Fund, in O.C.G.A. § 34-9-384(2)(B), may participate in the board's meetings via conference call or similar technology.
- It amends O.C.G.A. § 34-9-385 to address bankruptcy actions of participants and requires in (b) that an individual who files an application for adjustment of a claim against a participant who is or becomes an insolvent self-insurer is to file a written notice of such participant's status with the board and the board of trustees within 30 days of having such knowledge of the participant becoming an insolvent self-insurer.
- It changes the amount of the funded level whereby annual assessments against participants, who have paid at least three prior assessments, are to cease. Currently,

that amount in O.C.G.A. § 34-9-386(a)(1) is $10 million; the new amount is $15 million.

- It amends O.C.G.A. § 34-9-388(b), concerning reports of participant's insolvency, so that the board is required, "at the inception of a participant's self-insured status and at least annually thereafter, so long as the participant remains self-insured, furnish the board of trustees with a complete, original bound copy of each participant's audited annual financial statement performed in accordance with generally accepted accounting standards by an independent certified public accounting firm, three to five years of loss history, name of the individual or company to administer claims, and any other pertinent information submitted to the board to authenticate the participant's self-insured status." It still allows that the board may contract for services of a qualified certified public accountant or firm and requires that this financial information submitted by the participant remain confidential and not public information.

Governor Deal signed this bill as **Act Number 402** on April 26, 2016. The changes from HB 818 take effect on July 1, 2016

HB 831, by Rep. Calvin Smyre (D-Columbus), enacts the "Protecting Guardsmen's Employment Act" in O.C.G.A. § 38-2-280(d) so that those guardsmen, who get deployed to not only other countries but also other states, may get the same benefits relating to re-employment as permitted in the private sector. Governor Deal signed this bill into law as **Act Number 454** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 904, by Rep. Brian Strickland (R-McDonough), addresses Chapter 8 of Title 34 regarding the Unemployment Trust Fund. In part, this legislation:

- Adds a new Code Section at O.C.G.A. § 34-8-130 to help prevent fraud and abuse of the Unemployment Trust Fund. The Commissioner of the Department of Labor (or his or her delegate) is to submit to the State Revenue Commissioner the names and social security numbers of any individuals who are required to report earnings to the Department along with the amount of earnings such individuals have reported to the Department during specified time periods. The Revenue Commissioner is to make a comparison of the earnings and report back to the Department that such submitted earnings are either equal to, greater than, or less than the amount of income reported by that individual. Similar data may be submitted by the Department of Labor on employers with that information also compared by the Revenue Commissioner of the numbers of employees reported by such employer. The Department of Labor is responsible for costs involved/incurred by the Department of Revenue for this work. A cooperative sharing agreement is to be executed by the Department of Labor and Department of Revenue.
- Amends O.C.G.A. § 34-8-151, concerning the rate of employer contributions, and adds in (d) that "for periods on or after January 1, 2017, but on or before December 31, 2022, each new or newly covered employer shall pay contributions at a rate of 2.64 percent of wages paid by such employer with respect to employment during each calendar year until the employer is eligible for a rate calculation based on experience as

defined in this chapter, except as provided in Code Sections 34-8-158 through 34-8-162."

- Amends O.C.G.A. § 34-8-180 concerning the administrative assessment upon all wages and assessments due quarterly, creating in (b) those assessments to be implemented for periods on or after January 1, 2017 but on or before December 31, 2022 (.06 percent to be assessed upon all wages with certain exceptions).
- Changes O.C.G.A. § 34-8-181 concerning the additional assessment for new or newly covered employer, creating such rate for those for periods on or after January 1, 2017 but on or before December 31, 2022 (.06 percent of wages payable)
- Changes the repealer of this Article in O.C.G.A. § 34-8-185 from December 31, 2016 to January 1, 2023.

Governor Deal signed this measure as **Act Number 474** on April 27, 2016. The updates contained in HB 904 take effect on July 1, 2016.

SB 277, by Sen. John Albers (R-Roswell), adds a new Code Section at O.C.G.A. § 34-1-9, providing that neither a franchisee nor a franchisee's employee is deemed to be an employee of the franchisor for any purpose. This legislation is to be known as the "Protecting Georgia Small Business Act." Governor Deal signed this initiative as **Act Number 526** on May 3, 2016. It takes effect on January 1, 2017.

Local Government

HB 851, by Rep. Alex Atwood (R-St. Simons Island), adds, in part, a new Code Section at O.C.G.A. § 36-15-13 so that a county law library board is required to have an annual audit at the end of each fiscal year performed by the county accountant, the internal auditor employed by the governing authority of the county if that individual is a CPA, or a certified public accountant. This audit is then to be made available to the board and a copy is to be made available to the governing authority of the county, and it will be a public document. There is also a change in the composition of this board of trustees, adding the district attorney of the circuit in which the county is located at O.C.G.A. § 36-15-1. It amends the "use of funds" permitted in O.C.G.A. § 36-15-7(c) so that if this board of trustees determines that it has excess funds, then those funds may be designated by the board of trustees and disbursed by the board to charitable "tax-exempt organizations which provide civil legal representation for low-income people (which is permitted now); used to purchase software, equipment, fixtures, or furnishings for any office related to county judicial facilities or services, including but not limited to, courtrooms and jury rooms (which is new), or turned over to the county commissioners and used by the county commissioners for the purchase of software, equipment, fixtures, or furnishings for the courthouse." Governor Deal signed this bill as **Act Number 458** on April 26, 2016. This legislation took effect upon approval by the Governor.

SB 191, by Sen. Lindsey Tippins (R-Marietta), amends O.C.G.A. § 25-9-6 (c), concerning blasting or excavating near utility facilities so that the prerequisite notice which is to be given will expire in 30 days rather than 21 calendar days from the date of the notice and such blasting or excavating is to be completed in 30 calendar days rather than 21 days of the notice.

Further, the legislation adds a new Code Section at O.C.G.A. § 25-9-11.1 prohibiting a "local governing authority from enforcing any ordinance or resolution which imposes fines for a violation of a local ordinance or resolution that establishes requirements for white lining, marking of utility facilities, re-marking of utility facilities, or otherwise locating utility facilities or sewer laterals for any locate request or large project." Governor Deal signed this bill as **Act Number 367** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 206, by Sen. William Ligon, Jr. (R-Brunswick), amends O.C.G.A. § 36-60-17, relating to water bills owed by a prior owner, occupant or lessee to counties and municipal corporations. In part, it adds in (c), that a real property owner or tenant, person having executed a contract for the purchase or occupancy of real property, closing attorney in a real estate transaction for the property's purchase, or lender considering a loan of funds to be secured by the real property is entitled, upon written request, a statement from the public or private water supplier an accounting of the water charges currently owed and past due and any late charges and interest applicable for water to be supplied to such property. The supplier may charge up to a $10.00 fee to supply the requested information and that supplier is provided up to ten business days to respond to the request – failure of the public or private water supplier to do so can cause any lien for unpaid charges to be extinguished and to be of no force or effect as to the title acquired by the purchaser or lender, if any, and their respective successors and assigns in the transaction and prevents the public or private water supplier from denying water services to the new real property owner or tenant. This new Code Section does not apply to condominium associations which supply water. Governor Deal signed this initiative as **Act Number 368** on April 26, 2016. The Act takes effect on July 1, 2016.

SB 269, by Sen. Jesse Stone (R-Waynesboro), amends the prohibitions on immigration sanctuary policies by local governments at O.C.G.A. § 36-80-23(d) making it so that as a condition of funding, the Department of Community Affairs, Department of Transportation, or other State agency that provides moneys to local governing bodies is to require certification, pursuant to O.C.G.A. § 50-36-4 (verification of lawful presence in the United States and annual submission of immigration reports), as proof compliance with this Code Section. It amends O.C.G.A. § 50-36-4(b) and (d), requiring agencies to submit annual immigration compliance reports which incorporates requirements of O.C.G.A. § 36-80-3. Governor Deal signed this legislation into law as **Act Number 370** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 275, by Sen. Michael Williams (R-Cumming), requires, in a new Code Section at O.C.G.A. 36-1-80, that no local board of education is to adopt any code of ethics which *prevents* board members from discussing freely the policies and actions of the board while outside of a board meeting. The provision, however, does not apply to any matters discussed in executive sessions. This legislation became **Act Number 352** on April 26, 2016. It takes effect on July 1, 2016.

SB 420, by Sen. Lindsey Tippins (R-Marietta), requires voter approval of any public expenditure for the establishment, maintenance and operation of fixed guideway transit in O.C.G.A. § 36-1-27. The governing authority of a county must specify the type and location

of the guideway transit, the date when costs will be paid in full, and the full costs. It defines the "fixed guideway transit" as "a public transportation system using and occupying a permanent, separate right of way for the exclusive use of public transportation, including, but not limited to, rails for use by trains or a bus rapid transit system." An amendment was offered by Rep. Ed Setzler (R-Acworth), and adopted by the House and agreed to by the Senate, changing the portion of the legislation so that this new Code Section does not apply to the extension of a fixed guideway transit or levy of applicable sales and use taxes pursuant to the Metropolitan Atlanta Rapid Transit Authority Act of 1965 for which any referendum required by the Act is to control or to any project within a county or between counties which have approved applicable sales and use tax, provided that such project is wholly within the territorial boundaries of such county or counties. Governor Deal signed this legislation as **Act Number 624** on May 3, 2016. This Act takes effect on July 1, 2016.

Mental Health

SB 271, by Sen. Dean Burke, MD (R-Bainbridge), addresses notices required to be provided to individuals with mental illness, and their representatives, and provides "reasonable standards" for these notices concerning their "rights" upon the individual's admission to an emergency receiving facility. It requires that notices be provided upon arrival at an emergency receiving facility or as "soon as thereafter as reasonably possible given a person's condition or mental state at the time of arrival." The legislation specifically amends O.C.G.A. § 37-3-44 to add this requirement for the notice. It further revises the procedures for continued involuntary hospitalization in O.C.G.A. § 37-3-83, adding a process for such individual who has mental illness when a discharge has been planned and is deemed unsafe. The legislation also addresses the time period, shortening it to 40 days (rather than 60 days), if the chief medical officer desires to seek an order to continue involuntary treatment for up to 12 months beyond the expiration of the current period of hospitalization; that medical officer is required to send a notice to the Committee for Continued Involuntary Treatment Review before the expiration of that period. If, within 40 days of the expiration of an order for involuntary treatment relating to the individual with mental illness for who discharge has been planned, and the chief medical officer then determines it would be unsafe, then the chief medical officer may execute a certificate to be filed with the petition for continued involuntary treatment. A further amendment is inserted in O.C.G.A. § 37-3-147(a), regarding notices to guardians *ad litem* and patient representatives. In this Code Section, it requires, at the time a person who has mental illness is admitted in a facility, governed by Chapter 3 of Title 37, or as soon thereafter as reasonably possible given the person's condition or mental state at the time of admission, that the facility use diligent efforts to secure the names and addresses of at least two representatives, which names and addresses are then to be entered in that patient's clinical record. Governor Deal signed this initiative as **Act Number 405** on April 26, 2016. This legislation takes effect on July 1, 2016.

Motor Vehicles and Driver's Licenses

HB 166, by Rep. John Yates (R-Griffin), revises current law concerning the height of motorcycle handlebars in O.C.G.A. § 40-6-314(b), establishing that those handlebars may be

no more than 25 inches (current law is 15 inches). Governor Deal signed this bill as **Act Number 334** on April 26, 2016. This change takes effect on July 1, 2016.

HB 172, by Rep. Eddie Lumsden (R-Armuchee), addresses rafting (or floating) under the influence. The legislation adds in O.C.G.A. § 52-7-8(d), dealing with life saving devices for vessels and watercraft, an exemption for homemade or inflatable rafts which are operated no more than 100 feet from shore on a lake, pond, or other non-flowing body of water from the requirement to have such equipment. The legislation adds definitions for the terms 'homemade or inflatable raft,' 'personal watercraft,' and 'vessel' at O.C.G.A. § 52-7-12(o). The changes permit individuals to use their homemade or inflatable rafts and sailboards and enjoy alcohol without being subject to violations. Governor Deal signed HB 172 as **Act Number 363** on April 26, 2016. The Act takes effect on July 1, 2016.

HB 205, by Rep. Tom Rice (R-Norcross), originally proposed to require that automobile drivers who were stopped for DUI and refused blood alcohol concentration testing to have ignition interlock devices installed and maintained on their vehicles. This legislation was amended greatly in the Senate Judiciary Non-Civil Committee to prohibit a police officer from withdrawing an arrest report related to driving while under the influence of alcohol previously submitted by a law enforcement officer to the Department of Driver Services in O.C.G.A. § 40-5-67.1(f). Mothers Against Drunk Driving (MADD) had backed this legislation when it first included the requirement for the ignition interlock mechanism. A Conference Committee was appointed to work out differences, and the Conference Committee Report was adopted by both chambers, which now includes:

- A new Code Section at O.C.G.A. § 40-5-64.1 which permits in (a)(1) that "any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrest for which convictions were obtained or pleas of *nolo contendere* were accepted to the date of the current arrest, and whose driver's license is subject to an administrative driver's license suspension pursuant to subsection (c) of Code Section 40-5-67.1, may apply for an ignition interlock device limited driving permit with the department." In (a)(2), it also permits the individual to apply for an ignition interlock device limited driving permit with the department for individuals whose driver's license is subject to administrative driver's license suspension permit pursuant to O.C.G.A. § 40-5-67.1(d). It permits in (a)(3) that any person "whose driver's license has been suspended as a result of a second conviction for violating O.C.G.A. § 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, may apply for an ignition interlock device limited driving permit after serving at least 120 days of the suspension required for such conviction." In (a)(4), it outlines which individuals the department is not to issue an ignition interlock device to (e.g. someone under the age of 21; someone who is not currently licensed to operate a motor vehicle in Georgia; etc.). The new Code Section outlines the form which must be used to apply for these devices as well as fees to be paid for the ignition interlock device limited driving permit ($25.00). Further, it outlines the conditions of the device's use as well as its revocation.

- A new Code Section at O.C.G.A. § 40-5-64.2, requiring the Commissioner submit an annual report to the Senate Public Safety Committee and the House Committee on Motor Vehicles detailing annual numbers of optional ignition interlock device limited driving permits issued under O.C.G.A. § 40-5-64.1(a)(1) and (2).
- Amendments to O.C.G.A. § 40-5-67(b)(1) and the length of times for temporary driving permits – current law allows for officers to issue temporary driving permits for thirty (30) days and this legislation increases those permits' time to forty-five (45) days (in instances where the driver refuses to submit to a test or tests to determine the presence of alcohol or drugs or the individual is stopped while driving on a suspended license).

Governor Deal signed HB 205 as **Act Number 408** on April 26, 2016. The changes imposed in this Act take effect on July 1, 2017.

HB 579, by Rep. Tom McCall (R-Elberton), addresses vehicles which may be operated on highways when they are farm-use vehicles (all-terrain or personal transportation vehicles) used for transport of agricultural products, livestock, farm machinery, or farm supplies to or from a farm or by such farmer between his or her residence and the farm at which he or she works or between properties of such farm and operated by an individual who is 16 years of age and older in O.C.G.A. § 40-6-305. The Senate added that a municipality may prohibit or limit the operation of such vehicles on roads and highways within their jurisdictions, if determined that such operation endangers the safety of the traveling public. Governor Deal signed this bill into law as **Act Number 425** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 747, by Rep. Terry Rogers (R-Clarkesville), updates the reference date, in O.C.G.A. § 40-1-8, to 2016 to the federal regulations regarding the safe operation of motor carriers and commercial motor vehicles. Governor Deal signed this measure as **Act Number 437** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 767, by Rep. Alan Powell (R-Hartwell), amends the "Spencer Pass Law" in O.C.G.A. § 40-6-16. Under current law, drivers are to either slow down or move over a lane when approaching a stationary towing or recovery vehicle, or stationary highway maintenance vehicle which is displaying flashing yellow, amber or red lights. This legislation also adds the same requirements for the passing of a stationary, utility service vehicle (these vehicles include electric cooperative, public or private corporation, electric services, natural gas, water, waste-water, cable, telephone, or telecommunication services' vehicles) that is utilizing traffic cones – and also adds that the requirements hold if the vehicle is flashing white lights. Violations will be punishable by a fine of not more than $500.00. Governor Deal signed this legislation as **Act Number 326** on April 19, 2016. This Act takes effect on July 1, 2016.

HB 806, by Rep. Kevin Tanner (R-Dawsonville), transfers the Georgia Driver's Education Commission from the Department of Driver Services to the Governor's Office of Highway Safety for administrative purposes in O.C.G.A. § 15-21-172. This language was originally proposed by Rep. Bubber Epps (R-Dry Branch) in HB 795. Language was also added in O.C.G.A. § 32-2-15 permitting certified law enforcement officers, employed by the

Department of Public Safety, the ability to use a Department's motor vehicle while working an off-duty job if such job requires vested police powers as a condition of employment, has been approved by the Commissioner, and has been determined by the Commissioner to be in furtherance of the Department's mission and service to the State. The Commissioner is also granted discretion in granting approval for an off-duty job in which a Departmental motor vehicle is used and is to determine whether the off-duty employer is reimbursing the Department for the use of the vehicle. If reimbursement is required, then the Department and the employer are to enter into a written agreement for the amount of such reimbursement and the Department is to pay the employee of the Department compensation earned on off-duty employment whenever that employee performs such service in a Department motor vehicle; provided, however, that such compensation is not to be characterized as direct employment compensation but is to be paid as services under contract. The legislation also contemplates liability coverage for any claims arising out of the vehicle's use. Sen. Tyler Harper (R-Ocilla) and Rep. Bill Hitchens (R-Rincon) had similar proposals SB 404 and HB 1064 respectively. The legislation also deletes three Code Sections: O.C.G.A. § 35-2-56 (use of motor vehicles or other equipment by members of the Uniform Division); O.C.G.A. § 35-2-101(e) (jurisdiction, duties and powers, use of dogs to detect controlled substances, and off-duty use vehicles); and O.C.G.A. § 35-2-123 (use of vehicles by off-duty law enforcement officer). It further amends O.C.G.A. § 40-5-32 which in part at (a)(1) requires that every driver's license expires on the licensee's birthday in the eighth year following the issuance of such license (now such expiration is the fifth year). It also permits in (a)(2) that the Department may allow a veteran, honorary, or distinctive license holder to retain his or her expired veteran's, honorary or distinctive license as a souvenir. At (a)(3), it requires that each driver's license renew on or before its expiration date upon application payment of the required fee, and if applicable, satisfactory completion of the examination required (for persons ages 64 and older, those must complete an eye test). There are also changes in O.C.G.A. § 40-5-53(b) concerning the reporting of convictions to the Department and when licenses may be suspended. It also changes provisions relating to (1) personal identification cards at O.C.G.A. § 40-5-100(b), which are now valid for five years, so that these cards will be valid for eight years; and (2) identification cards for persons with disabilities, as outlined in O.C.G.A. § 40-5-172(a), will also be issued for individuals with permanent disabilities for a period of eight years rather than five years and be renewable on the applicant's birthday in the seventh year following such issuance rather than fourth year. Commercial driver's licenses, as outlined in O.C.G.A. § 40-5-150(g), will also now expire on the licensee's birthday in the eighth year following issuance rather than the fifth year. Governor Deal signed this legislation as **Act Number 449** on April 26, 2016. This Act took effect upon signature of the Governor except for the portion regarding the changes made in O.C.G.A. § 40-5-54(b), concerning convictions and suspensions of licenses. That section of the legislation becomes effective on January 1, 2017.

SB 320, by Sen. Ben Watson, MD (R-Savannah), revises the existing exemptions in O.C.G.A. § 40-5-21(a) afforded to nonresidents possessing a valid driver's license issued by their home state or country. This bill also provides alternative options for accepting validity of a driver's license issued by a foreign country as well as exceptions. An enforcement officer is permitted to consult, for those drivers with a license issued by a foreign country, the person's passport or visa to verify validity of such license. The legislation revises O.C.G.A. § 40-1-154,

eliminating current language relating to the regulation of limousine carriers and in its place requires that limousine carriers comply with the provisions of O.C.G.A. § 40-1-8 pertaining to the safe operations of motor carriers and commercial motor vehicles. It adds a new Code Section at O.C.G.A. § 40-1-193.1 to require that taxi businesses in Georgia are to register with the Department, and the Department will issue a license to such businesses which will be annually renewed (the fee is not to exceed $100.00) and that Code Section outlines certain steps that these taxi services must follow (including having a zero tolerance for their drivers regarding use of drugs or alcohol while on duty and it permits local governments to require proof of insurance or proof of payment of such insurance in the coverage amounts as required by law). Rep. Alan Powell (R-Hartwell), in a House Amendment, added the proof of insurance language, permitting the Department the ability to verify such insurance when issuing or renewing a certificate of public necessity and convenience or medallion. A change is also made in O.C.G.A. § 40-5-39(b), regarding requirements for operation of a motor vehicle for hire, eliminating the current requirement for proof of liability insurance coverage (the other provisions remain – driver's for-hire must be at least 18 years of age; possess a valid Georgia driver's license; not been convicted, been on probation or parole, or served time on a sentence for a period of seven years previous to the date of the application for any felony or any other crime of moral turpitude or a pattern of misdemeanors that evidences a disregard for the law unless he/she has received a pardon and can produce evidence of such; submit to at least one set of classifiable electronically recorded fingerprints for GCIC and FBI checks; and be a United States citizen or present federal documentation verified by United States Department of Homeland Security to be valid documentary evidence of lawful presence in the United States under federal immigration law). Finally, it amends O.C.G.A. § 40-5-81(d), concerning DUI Alcohol and Drug Risk Use Risk Reduction Programs and when those licenses are to be revoked (if they have a second conviction or subsequent offense in providing gifts, for the purposes of enrollment or solicitation, to students, employee or agent of a private company which has a contract with a county, municipality or consolidated government to provide probation services, law enforcement officer, or officer or employee of the judicial branch or court). Governor Deal signed SB 320 as **Act Number 573** on May 3, 2016. This Act takes effect on January 1, 2017.

Natural Resources and Environment

HB 840, by Rep. Ron Stephens (R-Savannah), amends several Code Sections in Titles 12 and 27 concerning conservation and natural resources and game and fish:

- O.C.G.A. § 12-2-2(c)(5) requires that establishing criminal violations of the standards, rules and regulations provided by the Board of Natural Resources will be those which are in force and effect on January 1, 2016 (updating from 2013).
- O.C.G.A. § 27-1-2(28) amends the definition, under game and fish, for 'feral hog' so that such hog is any hog which has lived any part of its life in a wild, free-ranging state and is currently in such state or has been taken.
- O.C.G.A. § 27-1-39, regarding the rules and regulations used to establish criminal violations, updates it to mean those rules and regulations of the Board of Natural Resources which are in force and effect on January 1, 2016 (updating from 2015).

- Adds a new Code Section at O.C.G.A. § 27-2-13.1 making it unlawful for any person to keep, hold, or possess any wildlife in captivity for film production purposes or to otherwise provide wildlife for use in film production without first procuring a film production permit (which is established in O.C.G.A. § 27-2-23(8) and adds a "resident film production wildlife permit" at annual cost of $300.00 and a "nonresident film production wildlife permit" at annual cost of $600.00).

Governor Deal signed this bill as **Act Number 456** on April 26, 2016. These revisions in HB 840 take effect on July 1, 2016 and apply to all offenses occurring on or after that date.

HB 1028, by Rep. Bill Werkheiser (R-Glennville), addresses the Department of Natural Resources and notices which are to be provided to affected localities when certain events take place involving solid or hazardous waste facilities. It adds a new Code Section at O.C.G.A. § 12-8-24.3 so that the owner or operator of a municipal solid waste landfill is to notify the governing authority of any city and county in which such landfill is located of any release of contaminant from the site of such landfill which is likely to pose a danger to human health. Such notice is to be published in the legal organ for the county where the landfill is located. These requirements are to be made within 14 days of the confirmation of the release of the contaminant. Governor Deal signed this bill as **Act Number 359** on April 26, 2016. This legislation takes effect on July 1, 2016.

SB 346, by Sen. Brandon Beach (R-Alpharetta), adds a new code section at O.C.G.A. § 12-16-9 relating to the "Environmental Policy Act." It provides that road or airport projects that do not exceed $100 million dollars in costs will not constitute a proposed governmental action which may "significantly adversely affect the quality of the environment and the requirements of this article shall not be applicable, except that an environmental evaluation shall be considered in the decision-making process with O.C.G.A. § 12-16-2(3), when it is probable to expect significant adverse impact on historical sites or buildings and cultural resources." Governor Deal signed SB 346 as **Act Number 339** on April 26, 2016. This legislation takes effect on July 1, 2016.

Professions and Businesses

HB 649, by Rep. Sharon Cooper (R-Marietta), addresses licensure for lactation consultants in a new Chapter 22A of Title 43. The new law will be known as the "Georgia Lactation Consultant Practice Act" and implements a licensure process for these professionals which will be overseen by the Secretary of State (See O.C.G.A. § 43-22A-9). An applicant for licensure as a lactation consultant must be at least 18 years of age and have completed an application as the Secretary of State prescribes with applicable fees. Additionally, he or she is required to meet the following requirements: (1) meet the international education and clinical standards established for International Board Certified Lactation Consultants by the International Board of Lactation Consultant Examiners or its successor organization; (2) provide proof of successful completion of the International Board Lactation Consultants Examiners' examination or the examination of any successor organization; (3) have satisfactory results from a criminal background check report conducted by the Georgia Crime Information Center and the Federal

Bureau of Investigation, as determined by the Secretary. (Application for a license under this Code Section shall constitute express consent and authorization for the Secretary to perform a criminal background check. Each applicant who submits an application to the Secretary for licensure agrees to provide the Secretary with any and all information necessary to run a criminal background check, including but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check.); and (4) complete other requirements as may be prescribed by the Secretary. No individual may use the title "licensed lactation consultant" after July 1, 2018 unless that individual has a license issued by the Secretary of State. Governor Deal signed this bill as **Act Number 429** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 800, by Rep. Rick Jasperse (R-Jasper), amends O.C.G.A. § 43-50-3, relating to the scope of practice for veterinarians. It clarifies the scope of the veterinarian-client-patient relationship. It requires sufficient knowledge of the animal by the licensed veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This includes information on medically appropriate and timely visits by the licensed veterinarian to premises within an operation or production system where the animal or groups of animals are kept. Governor Deal signed this bill as **Act Number 448** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 821, by Rep. Al Williams (D-Midway), adds a new Code Section at O.C.G.A. § 43-1-34 to require that professional licensing boards and other boards adopt rules and regulations by which to implement a process for military spouses and transitioning service members (those who are 24 months from retirement or 12 months from separation) to qualify for temporary licenses, licenses by endorsement, expedited licenses or a combination of those for each profession, business or trade for which a license is issued. "Military" includes the United States armed forces and National Guard. These rules are to be adopted no later than July 1, 2017. Any professional licensing board or other board created *after* June 30, 2016 is to adopt such rules within one year of its creation. Governor Deal signed this measure as **Act Number 452** on April 26, 2016, and it takes effect on July 1, 2016.

HB 869, by Rep. Alan Powell (R-Hartwell), addresses responsibilities of real estate brokers in O.C.G.A. § 43-40-18(c) and O.C.G.A. § 43-40-25(b). In part, it clarifies that the broker or qualifying broker is to review for compliance with Chapter 40 of Title 43 and its rules and regulations for all listing contracts, leases, sales contracts, and management agreements to buy, sell, lease, or exchange real property and any offer to buy, sell, lease, or exchange real property accepted within the time limit of said offer secured or negotiated by the firm's associates – it has to be done 30 days from the date of the offer or contract. Governor Deal signed this bill as **Act Number 463** on April 27, 2016. The Act takes effect on July 1, 2016.

HB 943, by Rep. Carl Rogers (R-Gainesville), prohibits engineering, architectural, or land surveying contracts from requiring one party of the contract to hold harmless, insure, or defend the other party to the contract or other named indemnitee, including its, his or her officers, agents, or employees against liability or claims for damages, losses, or expenses (including attorney fees) is against public policy and void and unenforceable except for

indemnification for damages, losses, or expenses to the extent caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of the indemnitor or other persons employed or utilized by the indemnitor in the performance of that contract in O.C.G.A. § 13-8-2(c). Governor Deal signed this legislation as **Act Number 355** on April 26, 2016. This revision takes effect on July 1, 2016.

HB 952, by Rep. Chad Nimmer (R-Blackshear), enacts the "Georgia Professional Regulation Reform Act" and is a response to the United States Supreme Court opinion ***N.C. State Board of Dental Examiners v. FTC, 135 S. Ct. 1101 (2015)***. In the Supreme Court opinion, it requires that states have direct active supervision of professional boards before board members may be afforded immunity from federal antitrust violations. This legislation gives such authority for active supervision of the boards to the Governor in O.C.G.A. § 43-1C-1, *et seq*. Among the duties include for the Governor (or his or her designee) to (1) review and, in writing, approve or veto any rule before it is filed in the office of the Secretary of State if such rule is required to be filed with the Secretary of State or before such rule becomes effective if filing is not required; (2) review and, in writing, approve or veto any rule that is (A) challenged via an appeal to the Governor after the denial of a petition filed pursuant to Code Section 50-13-9 or (B) submitted by a professional licensing board for review by the Governor; (3) review and, in writing, approve, remand, modify or reverse any action by a professional licensing board that is (A) challenged via an appeal to the Governor; or (B) submitted by a professional licensing board for review by the Governor; and (4) promulgate any regulations or executive orders necessary to effectuate the provisions of Chapter 1C of Title 43. All review taken by the Governor is to be completed within 90 days. Governor Deal signed this initiative as **Act Number 485** on April 27, 2016. This Act takes effect on July 1, 2016.

SB 319, by Sen. Lester Jackson (D-Savannah), clarifies several provisions in Title 43 and allows for professional counselors to diagnose emotional and mental problems or conditions at O.C.G.A. § 43-10A-3(10), and it defines, 'diagnose,' at O.C.G.A. § 43-10A-3(4) so that it means "use, administration, or application of any criteria contained within standard classification or diagnostic systems for mental disorders and that are related to the scope of practice as provided pursuant to this chapter. Diagnose shall not mean the diagnosis of any neuropsychological functioning or conditions." In addition, the bill requires the board, in O.C.G.A. § 43-10A-16, which governs professional counselors to develop curriculum of continuing education for licensed practitioners relating to diagnosing individuals with mental illness, developmental disabilities, or substance abuse. The board retains its full authority to determine education, experience, and training required of its licensees. There is a "grandfather" provision for persons licensed in Chapter 10A of Title 43 who have at least ten years of experience working with people with mental illness, developmental disabilities, or substance abuse and in good standing with the board so that those individuals will be exempt from the requirements under O.C.G.A. § 43-10A-16(b). It requires in O.C.G.A. § 43-10A-22(b) that on or before January 1, 2017 the board for professional counselors, social workers and marriage and family therapists, in consultation with the State Board of Examiners of Psychologists, promulgate rules and regulations that define for its licensees testing and assessments authorized by this chapter and not prohibited by this Code Section. There is also language addressing enforcement for individuals who may not be acting within their scope of

authority. Moreover, SB 319 defines "psychological testing" at O.C.G.A. § 43-39-1(6) and that performing such psychological testing is only within the scope of practice of psychologists. It also adds language at O.C.G.A. § 43-39-7(9) clarifying that nothing in Chapter 39 of Title 43 is to be construed as prohibiting any person licensed under Chapter 10A of Title 43 from providing services he or she is authorized to perform. It further adds that the Georgia Composite Board of Professional Counselors, Social Workers and Marriage and Family Therapists has sole authority to regulate assessment and testing performed by persons licensed under Chapter 10A of Title 43. Governor Deal signed this bill as **Act Number 377** on April 26, 2016. This Act became effective upon signature of the Governor.

Public Employees and Officers

HB 73, by Rep. Scot Turner (R-Holly Springs), amends O.C.G.A. § 45-2-1, authorizing counties and cities to provide by local law district durational residency requirements. It specifically adds in (1) that: "Notwithstanding anything in this paragraph to the contrary, the General Assembly may provide by local law for a period of district residency for candidates for any county or municipal governing authority or board of education who are elected from districts not to exceed 12 months residency within the district from which each such candidate seeks election." Governor Deal signed this bill as **Act Number 601** on May 3, 2016. This Act took effect upon signature.

HB 949, by Rep. Alan Powell (R-Hartwell), addresses the issuance and use of government purchasing cards by local officials in O.C.G.A. § 36-80-24. It prohibits the issuance of such cards until the local constitutional officer (either the clerk of superior court, judge of probate court, sheriff, tax receiver, tax collector, or tax commission) creates a policy addressing their use and files that policy with the governing authority of the county. Governor Deal signed this measure as **Act Number 484** on April 27, 2016. The changes take effect on July 1, 2016.

Religious Freedom

HB 757, by Rep. Kevin Tanner (R-Dawsonville), now known as the 'Free Exercise Protection Act,' as revised by the House and Senate, provides ministerial and individual protections against infringement on religious exercise balanced with protecting individuals from invidious discrimination (which is discrimination that is offensive or objectionable, especially because it involves prejudice or stereotyping or otherwise treats a class of persons unequally in a manner that is irrational, malicious, hostile, or damaging). This Act adds O.C.G.A. § 19-3-11, relating to marriage generally, by providing certain ministerial protections. Specifically, clergy ordained or authorized to solemnize marriages, according to the usages of his or her denomination and acting in an official religious capacity, are not required to solemnize any marriage in violation of his or her right to free exercise of religion under the United States or Georgia Constitutions. A refusal by such clergy is not to give rise to a cause of action, alter in any way State tax treatment, cause any tax or penalty or payment to be assessed against such faith-based organization, or otherwise disallow charitable deductions for state tax purposes. The legislation amends O.C.G.A. § 10-1-573, relating to day of rest for employees of business and industry, to prohibit any business or industry from being compelled to work on either of

the two rest days (Saturday or Sunday) by ordinance or resolution of any county, municipality, or consolidated government. Additionally, in Title 10, relating to commerce and trade, that law is amended to provide certain protections for faith-based or religious organizations (which includes religious clergy, religious schools, or non-profit corporations). Faith-based organizations will not be required to rent, lease, or otherwise grant permission for property to be used by another person for purposes which are objectionable to such religious organization; nor shall such faith-based organizations be required to provide social, educational, or charitable services that violate that faith-based organization's sincerely held religious beliefs as demonstrated by practice, expression or clearly articulated tenet of faith. Further changes were made in Title 34, relating to labor and industrial relations generally, so that faith-based organizations will not be required to hire persons whose religious beliefs or practices or lack of either are not in accord with the faith-based organization's sincerely held religious beliefs as demonstrated by practice, expression or clearly articulated tenet of faith. The legislation provides that a refusal by such faith-based organizations under Title 10 or Title 34, as discussed above, is not to give rise to a cause of action, alter in any way State tax treatment, cause any tax or penalty or payment to be assessed against such faith-based organization, or otherwise disallow charitable deductions for state tax purposes. The above Code Sections will also provide faith-based organizations grounds for a claim or defense in any judicial, agency or other proceeding to obtain a declaratory judgment or injunctive relief as well as in some instances reasonable court costs and attorney's fees. A 30-day *ante litem* notice is required to be given to the government when bringing such suits against the government. Final changes are in Title 50, relating to State Government, providing guidelines on when the government may regulate religious exercise. The government may burden a person's exercise of religion only by a generally applicable law, rule, regulation, ordinance, or resolution, where the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of achieving that interest. Nothing in this provision prevents local ordinances with antidiscrimination provisions from existing so long as those ordinances meet the above test. Finally, the legislation allows a person aggrieved by a violation of the above provision to seek a declaratory judgment action or injunctive relief against the government, as well as in some instances reasonable court costs and attorney's fees. Additionally, O.C.G.A. § 50-15A-5 provides that persons may act in accordance with their religious beliefs, as allowed under the Georgia Constitution and consistent with decisions of the Georgia Supreme Court. However, a person's right to exercise religious freedom, which may be manifested in acts, ceases where such actions would constitute invidious discrimination (i.e., discrimination that is offensive or objectionable, especially because it involves prejudice or stereotyping or otherwise treats a class of persons unequally in a manner that is irrational, malicious, hostile, or damaging). These protections are not to be construed as applying to penological rules, regulation, conditions, or policies established by penal institutions that are reasonably related to the safety and security of incarcerated persons, staff, visitors, or otherwise for the maintenance of good order at the penal institution or parole or probation program. Nor is this chapter to be construed as either giving rights to an employee against an employer that is not a government, or to provide any relief or protection to a public officer who fails or refuses to perform his or her official duties. Accordingly, O.C.G.A. § 50-21-38 is added whereby the State expressly waives sovereign immunity as to any claim, counterclaim, cross claim, or third-party claim brought in the courts of this state by an aggrieved individual or faith-based organization seeking a declaratory

judgment, injunctive relief, or reasonable attorney's fees and court costs against the state. The Senate substitute to HB 757 was agreed to by the House, as amended, despite much opposition from the left and some Republicans. Governor Deal, however, **vetoed** this legislation as **Veto Number 1** on March 28, 2016. Governor Deal's veto message reflected on the "intense feelings" which the proposal caused. It would appear that his reluctance to sign was due, in part, to the fact that while religious and faith-based organizations as well as people of faith have argued that "solemnizing a marriage, attending such marriages, hiring church personnel, or renting church property when such acts (same sex marriages) would be contrary to their sincerely held religious beliefs." However, there has not been a single instance in Georgia which has been called to the Governor's attention on this issue. Governor Deal made it clear that he had no objection to the "Pastor Protection Act" as it passed the House. The later versions of the legislation were the ones which he indicated that would "give rise to state-sanctioned discrimination." Those forms of the legislation caused him concerns. He also offered in his message that we should essentially keep our "hands-off" the First Amendment to our Constitution as "religious liberty is conferred by God and not by man-made government." The transcript of Governor Deal's remarks on HB 757 may be found using this link http://gov.georgia.gov/press-releases/2016-03-28/transcript-deal-hb-757-remarks-0 .

Retirement and Pensions

HB 605, by Rep. Tom Weldon (R-Ringgold), amends O.C.G.A. § 47-23-63(c), concerning the definition and effect of full-time and part-time service and calculations for judicial retirement, to provide that a member of the Georgia Judicial Retirement System, who was serving in a full-time position on his or her retirement, may use prior part-time service for the purposes of 'vesting' in the system. Currently, the law does not permit using prior part-time service to vest for benefits. The legislation further establishes the calculation of benefits be determined on the basis of a "ratio determined by dividing the average monthly compensation for the 24 consecutive month period producing the highest such average during the part-time service by the average monthly salary during the 24 consecutive month period producing the highest such average during the full-time service. The resultant percentage will be multiplied by the total part-time service and the result added to the total full-time service, resulting in the total service to be used in all benefit calculations." Governor Deal signed this bill as **Act Number 426** on April 26, 2016. This Act takes effect on July 1, 2016 as Budget Conferees addressed this increase of funds in HB 751 (FY 2017 Budget).

HB 635, by Rep. Bubber Epps (R-Dry Branch), addresses the Judges of the Probate Courts Retirement Fund in Chapter 11 of Title 47. It increases the number of years of mandatory contribution to the Fund in O.C.G.A. § 47-11-40(7), moving the required number of years from 20 to 30 years. It further adds the ability to obtain creditable service in a new Code Section at O.C.G.A. § 47-11-43 (when the judge has service in excess of 20 years as a judge of the probate court, employee of the board, or secretary-treasurer but not more than the actual number of years of service or 30 years, whichever is less). It also provides for the application and payment of funds in O.C.G.A. § 47-11-71. Governor Deal signed this legislation into law as **Act Number 427** on April 26, 2016. This legislation takes effect on July 1, 2016 if it is

determined to have been concurrently funded as provided in Chapter 20 of Title 47; otherwise it will not take effect and be automatically repealed on July 1, 2016.

HB 690, by Rep. Amy Carter (R-Valdosta), addresses the Employees' Retirement System of Georgia (ERS), adding a new Code Section at O.C.G.A. § 47-2-226. Any law enforcement officer, who prior to becoming a member of the ERS, was employed by a local government as a full-time employee, in a position in which he or she was vested with the authority to enforce criminal or traffic laws, and had the power of arrest and also had duties including the preservation of public order, the protection of life and property, or prevention, detection or investigation of crime is eligible to obtain creditable service if (1) the member was not eligible for a defined benefit or defined contribution retirement or pension plan while employed by the local governing authority other than membership in the Peace Officer's Annuity and Benefit Fund; and (2) the member has been a member of the retirement system for at least ten years. This change allows the individual to obtain up to five (5) years of creditable service, not to exceed the actual number of years of service. To obtain such, the member must: (1) make application to the ERS board of trustees; and (2) pay the board of trustees an amount that it determines to be sufficient to cover the full actuarial cost of granting the creditable service. The board of trustees, once an application for this creditable service is received, is to notify the applicant the amount of payment required. HB 751, the State's FY 2017 budget, includes language to address this funding. Governor Deal signed this bill as **Act Number 432** on April 26, 2016. Thus, this Act takes effect on July 1, 2016.

HB 844, by Rep. Howard Maxwell (R-Dallas), addresses the Georgia Firefighter's Pension Fund in Chapter 7 of Title 47. Specifically, it adds in O.C.G.A. § 47-7-61(a)(2) that tax on premiums charged by fire insurance companies for certain classes of coverage, exclusions, and penalty for failure to report and pay such tax so that if "property covered under any policy for which gross premiums are reported as required by paragraph (1) of this subsection is served by public fire suppression facilities, and such property is rated less favorably than a class nine rating under standards set forth in the Fire Suppression Rating Schedule, published by the Insurance Services Office, a rating organization licensed by the Commissioner of Insurance, which schedule is maintained on file with the Commissioner of Insurance as required by general law and which has not been disapproved by the Commissioner, or less than a rating which the board by regulation determines is substantially equivalent under rating standards published by an organization licensed by the Commissioner of Insurance utilizing similar ratings, and which standards are maintained on file with the Commissioner of Insurance and have not been disapproved by the Commissioner, then and to that extent the premiums under such policy shall be excluded in determining the tax imposed under this Code Section. The amount of any exclusion of such tax shall be reported on returns filed with the board." It also adds a new subsection (d) in O.C.G.A. § 47-7-124 (concerning disposition of funds abandoned by members separated from the service, notice and limitation on asserting certain claims) so that "venue for actions arising under this chapter brought against the board or the fund in superior court, including but not limited to, a judicial review of a final decision of the board, shall be in the superior court of the county of domicile of the board." Governor Deal signed this legislation as **Act Number 457** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 243, by Sen. Jack Hill (R-Reidsville), amends O.C.G.A. § 47-23-43, adds O.C.G.A. § 47-23-43.1, and amends O.C.G.A. § 47-23-100 to allow any full-time employee serving as legislative counsel, with admission into the State Bar of Georgia, to become a member of the Judicial Retirement System (JRS). Eligible individuals wishing to become a member must notify the board no later than December 31, 2016 or within 90 days of employment, whichever date is later. The Employee's Retirement System (ERS) is required to transfer all employee and employer contributions, plus interest, to JRS. Also, members will receive creditable service for actual years of service as a member of ERS. Governor Deal, however, **vetoed** this legislation as **Veto Number 13** on May 3, 2016. Further, he line-item vetoed the funding in the FY 2017 Budget, HB 751, regarding this proposed change. In part, his message indicated that these individuals have access to the Employees' Retirement System of Georgia.

SB 335, by Sen. Ellis Black (R-Valdosta), addresses the "Public Retirement Systems Investment Authority Law" at O.C.G.A. § 47-20-83(a)(24), revising provisions related to permissible investments so that such may be made in commingled funds and collective investment funds maintained by State chartered banks or trust companies (or regulated by the Office of the Comptroller of the Currency of the United States Department of Treasury). Governor Deal signed this bill as **Act Number 380** on April 26, 2016. This change takes effect on July 1, 2016.

SB 336, by Sen. Ellis Black (R-Valdosta), addresses Article 3 of Chapter 5 of Title 47, retirement plans of the "Georgia Municipal Employees Benefit System." Under current law, each employer is permitted by governing body ordinance or by resolution of the governing body to establish a retirement plan or join a master plan. This legislation allows the employer to do so and clarifies that employee contributions under a defined benefit plan cannot exceed 50 percent of the value of an employee's benefit payable from the plan, except to any employee contribution made to purchase creditable service. It also amends O.C.G.A. § 47-5-41, relating to the establishment and use of "master plans" (in the Georgia Municipal Employees Benefit System) and permits the board of trustees the power to establish one or more of these master plans which may be adopted by any employer – it eliminates the current restriction that such joining is limited to those with fewer than 16 employees. Again, any contributions from the employee into a master plan are clarified so that they cannot exceed 50 percent of the value of an employee's benefit payable from the plan (except for any purchase of creditable service). Governor Deal signed this measure into law as **Act Number 381** on April 26, 2016. The changes take effect on July 1, 2016.

Social Services and Child Welfare

HB 725, by Rep. Wes Cantrell (R-Canton), addresses added confidentiality for child abuse and deprivation records which are maintained by Child Advocacy Centers (CACs). The legislation is to be known as the "Child Abuse Records Protection Act" in Article 2 of Chapter 5 of Title 49. The initiative changes and adds several definitions in the law in O.C.G.A. § 49-5-40 – it includes that 'child abuse' is also physical injury or death inflicted on that child by not only a parent or caretaker but also by a guardian or legal custodian of the child and would also apply to neglect or exploitation, sexual abuse, sexual exploitation or emotional abuse of the child. It

outlines a definition for 'child advocacy center' (created by and supported thorough one or more intracommunity compacts and has been approved by a protocol committee). It provides for a definition of the term, 'record,' to mean "documents, books, maps, drawings, computer based or generated information, data, data fields, digital images, photographs, video images, audio recordings, and video recordings." There is a broadened definition for the term, 'sexual exploitation,' which means: conduct by any individual who allows, permits, encourages, or requires any child to engage in: (A) trafficking of persons for labor or sexual servitude, in violation of Code Section 16-5-46; (B) prostitution in violation of Code Section 16-6-9; (C) obscene depiction of a minor, in violation of Code Section 16-11-40.1; (D) nude or sexually explicit electronic transmission, in violation of Code Section 16-11-90; or (E) sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of Code Section 16-12-100. It declares all records of reports of child abuse and child controlled substance or marijuana abuse in custody of not only the Department or other state or local agency but also by a child advocacy center is to be declared "confidential" and with access thereto prohibited except as provided in Code Sections 49-5-41 and 49-5-41.1. It rewrites in O.C.G.A. § 49-5-40 which persons or agencies may have "reasonable access" to the records concerning reports of child abuse (e.g. federal, state or local governmental entity, tribal entity or agency which has the need for the information to carry out its legal responsibilities to protect children from child abuse and neglect; grand jury by subpoena when access to the records is necessary to conduct official business; prosecuting attorneys of Georgia or other state or political subdivision or for the United States in connection with official duties; any adult who makes a report of suspected child abuse under limited instances; any entity which receives from a school employee a report of suspected child abuse; any adult requesting information regarding investigations by the Department or a governmental child protective agency regarding the findings or information about the case of child abuse or neglect involving a fatality or near fatality under certain conditions; the State Personnel Board by administrative subpoena once the state administrative law judge determines that such access is necessary; child advocacy center when it has need for information to carry out its legal responsibilities to protect children from child abuse or neglect; police or other law enforcement or medical examiner or coroner investigating a report of known or suspected child abuse or any review committee or protocol committee created under Chapter 15 of Title 19; Governor, Attorney General, Lt. Governor or Speaker when a written request is made; and "a court, by subpoena filed contemporaneously with a motion seeking records and requesting an *in camera* inspection of such records, may make such records available to a party seeking such records when: (A) such motion is filed; (B) such motion is served; (i) on all parties to the action; (ii) on the Department or other entity that has possession of such records, as applicable; and (iii) in matters other than a dependency proceeding or a civil proceeding wherein there is no related pending criminal investigation or prosecution of criminal or unlawful activity, on the prosecuting attorney, as applicable; and (C) after an *in camera* inspection of such records the court finds that access to such records appears reasonably calculated to lead to the discovery of admissible evidence." This subpoena is to be served on the prosecuting attorney who has jurisdiction over a pending investigation or prosecution of criminal or unlawful activity if such information is known to the individual seeking such access or disclosure. It also permits the prosecuting attorney to intervene. When the court issues an order, it shall issue a protective order to ensure the confidentiality of the records (this protective order may make any order which justice requires to protect a party or person from annoyance, embarrassment,

oppression, or undue burden or expense and may include one or more of the following: (i) that the records not be reproduced except as authorized by court order; (ii) that the records be viewed or disclosed only on specified terms and conditions; (iii) that the records be sealed and only opened by court order; (iv) that the order be applicable to all parties, their counsel, and any agent or representative of a party; or (v) that records released pursuant to such order be returned to the court upon completion of the matter that caused the production of such records.). Failure to comply may be punishable as contempt by the court. Governor Deal signed this legislation into law as **Act Number 344** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 765, by Rep. Jay Powell (R-Camilla), clarifies in O.C.G.A. § 49-3-2 that active or retired professionals may serve on a local Division of Family and Children Services Board. These professionals include pediatric health professionals, emergency responders, law enforcement, private child welfare providers, mental health providers, faith-based leaders, and teachers/appropriate school personnel. Current law is not clear whether retired individuals are permitted to serve in such capacity. Governor Deal signed this initiative as **Act Number 440** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 887, by Rep. Chuck Efstration (R-Dacula), is another piece of legislation used as a vehicle for Sen. Renee Unterman's (R-Buford) SB 3, the "Supporting and Strengthening Families Act." This legislation contains:

- Language in O.C.G.A. § 15-11-35(e) so that the Division of Family and Children's Services (DFCS) is to provide preference for placement of a child to an adult who is "a relative or fictive kin over a nonrelated caregiver, provided that the such relative or fictive kin has met all requirements for a DFCS relative or fictive kin placement and such placement is in the best interests of the child; and such child shall be placed together with his or her siblings who are also in protective custody or DFCS shall include a statement in its report and case plan of continuing efforts to place the siblings together or document why such joint placement would be contrary to the safety or well-being of any of the siblings."
- Changes in O.C.G.A. § 15-11-146(b)(3), regarding a preliminary protective hearing, so that DFCS is to prioritize temporary placement with an adult who is a relative or fictive kin, provided that such individual has met DFCS's requirements for relative placement and such temporary placement is in the best interests of such child. Again, that "priority" language is added in O.C.G.A. § 15-11-212(a)(2)(A), relating to disposition of a dependent child and in O.C.G.A. § 15-11-321(a), where courts are determining the custody of a child following termination proceedings or surrender of parental rights.
- A new Article 5 in Chapter 9 of Title 19 the "Supporting and Strengthening Families Act." It permits in O.C.G.A. § 19-9-142 that a parent, guardian, or legal custodian of a child "may delegate caregiving authority regarding such child to a kinship caregiver for a period not to exceed one year, except as provided in O.C.G.A. § 19-9-150, by executing a power of attorney that substantially complies with this article."

- This power of attorney (written and notarized before a notary public) would not apply to marriage or adoption of the child; performance or inducement of an abortion on or for such child; or the termination of parental rights to such child.
- This power of attorney may be delegated *without* court approval as long as it does not change or modify any parental or legal rights, obligations, or authority established by an existing court order.
- It also cannot deprive or limit any support for a child that would be received pursuant to a court order or other reason. The money will "follow the child" and the Department of Human Services' Child Support Enforcement Agency is authorized to redirect support payments to the agent until the child returns to the individual who executed the power of attorney.
- It also prohibits any execution of these powers of attorney during the pendency of a divorce or custody proceeding.
- The agent must acknowledge in writing of his/her acceptance of the responsibility for caring for the child for the duration of the power of attorney and is to certify that he/she is not on the State's sexual offender registry or the sexual offender registry for another state, United States territory, the District of Columbia, or any Indian Tribe nor has he or she ever been required to register on any such registry. The certification includes a criminal background check, if requested by the individual executing the power of attorney.
- This agent is to act in the best interests of the child – he or she is responsible for medical, dental, or mental health care; and has the right to enroll the child in a public school serving the area where the agent resides or a private school, pre-kindergarten, or home study program.
- The individual (parent, guardian, or legal custodian) who has custody of the child and intends to execute this power of attorney is required to provide 30 days written notice to the non-custodial parent(s) by certified mail or statutory overnight delivery, return receipt requested. This notice "constitutes a change in material conditions or circumstances" for the purpose of a child custody modification proceeding. The person who receives such notice may object – but such objection must be within 21 days of the delivery of the notice.
- There are prohibitions in executing this power of attorney outlined in O.C.G.A. § 19-9-145 – the power of attorney cannot be used to place or enroll a child in a school to participate in the academic or interscholastic athletic programs offered by that school and such cannot be used to subvert an investigation of the child's welfare by the Division of Family and Children's Services.
- The power of attorney is not "abandonment" nor reportable as child abuse or neglect (see O.C.G.A. § 19-9-148), unless the individual who executed the power of attorney fails to take custody of the child or execute a new power of attorney after the expiration or revocation of the power of attorney.
- In O.C.G.A. § 19-9-150, it permits individuals in armed forces of the United States or the commissioned corps of the National Oceanic and Atmospheric Administration or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the armed forces of the United States or someone who is required to enter or serve in the active military service of the United States under the call or order of the

President of the United States or someone who is to serve on State active duty may delegate caregiving authority for a period *longer* than one year if the parent is deployed (as defined in O.C.G.A. § 19-9-6) but such cannot be longer than the term of deployment plus 30 days.

Governor Deal signed the language of HB 887 into law as **Act Number 337** on April 26, 2016; it takes effect on July 1, 2016. However, due to the enactment of SB 64 after this legislation, the portion of the HB 887 addressing power of attorney over a child in Article 5, Chapter 9 of Title 19, was **repealed.** Thus, with the signing of SB 64 after HB 887, it eliminates the language of the "Supporting and Strengthening Families Act."

HB 905, by Rep. Mandi Ballinger (R-Canton), updates Georgia's child abuse mandated reporting laws. This legislation was amended in the Senate, adding HB 915, by Rep. Andy Welch (R-McDonough), to address the coordination of annual inspections of child welfare agencies by various State departments and the establishment by the Department of Human Services of a scorecard to be housed on the Department's website for those agencies. The final version of the legislation includes:

- A new Code Section at O.C.G.A. § 16-3-22.1 providing, in subsection (a), an immunity from liability to a person who in "good faith has possession of materials or images in violation of Article 3 of Chapter 12 of Title 16 and immediately notifies law enforcement officials or any person as required in O.C.G.A. § 19-7-5 to report suspected child abuse or makes such notification within 72 hours from the time that there is reasonable cause to believe such person is in possession of such materials or images." (This is the same immunity provided to a law enforcement officer for such possession.) This official report of the law enforcement agency or of DFCS is to create rebuttable presumption of good faith and reasonableness on the part of the individual with such possession.
- Amendment to O.C.G.A. § 19-7-5(b), including that "endangering a child" is a part of the definition of the term, 'child abuse' and it includes any act described in O.C.G.A. § 16-5-70(d), acts described in O.C.G.A. § 16-5-73, acts described in O.C.G.A. § 40-6-391(l) or prenatal abuse as defined in O.C.G.A. §15-11-2. This Code section also addresses 'sexual abuse' which is to include consensual sex acts when the sex acts are between minors if any individual is less than 14 years of age; provided, however, that it is not to include consensual sex acts when the sex acts are between a minor and an adult who is not more than four years older than the minor.
- Adds in O.C.G.A. § 19-15-1(4) a definition for 'child advocacy center.'
- Amends O.C.G.A. § 19-5-2, addressing a protocol committee on child abuse. It now permits the protocol committee in a judicial circuit to be composed of more than one county. It further outlines who shall be represented on this protocol committee (e.g. sheriff, local DFCS from each county, district attorney for the judicial circuit, presiding juvenile court judge for each county in the circuit, chief magistrate of each county in that circuit, each local board of education in the circuit, each county mental health organization in the circuit, chief of police of each county in the circuit, if any; chief of police of the largest municipality in the judicial circuit; county public health department

of each county in the judicial circuit; and coroner or county medical examiner of each county in the circuit) – a representative of a local child advocacy center and a representative of a sexual assault center are also to serve on the protocol committee if such exists in that location. This protocol committee is to file an updated protocol with DFCS within the Department of Human Services and the Office of the Child Advocate no later than September 1 of each year.

- Adds a new Code Section at O.C.G.A. § 49-5-4.1 addressing programs and protection for children and youth to require in subsection (b) that the Department of Human Services is to establish a child welfare agency public scorecard to "score" child welfare agencies. Agencies are required to cooperate with the Department in this scorecard development. This scorecard is to be published on the Department's website for public review with the scores of each child welfare agency posted. Scores are to be published 30 days after completion of an inspection, or if appealed, the revised score if any is to be posted within 30 days of the conclusion of the appeal. Scores will be reviewed on compliance with laws; rules; contracts; court orders; measures of treatment, behavioral, vocational and educational outcomes for persons receiving services; and other pertinent information based on "empirical evidence to the greatest extent possible." In subsection (e), the Department is required to provide the child welfare agencies with "advanced written notice of the scores to be posted" – agencies are permitted to contest a score, appealing such within 10 days from receipt of the notice.
- Amends O.C.G.A. § 49-5-12, increasing penalties in subsection (p) for a child welfare agency operating without a license or commission – increasing such penalty from not less than $500.00 and not more than $1,000.00 (currently the minimum is $50.00 and maximum is $200.00).
- Adds a new Code Section at O.C.G.A. § 49-5-12.3, addressing annual inspections by the Department of each child welfare agency. It requires that such inspections be performed by all affected agencies in a "singular coordinated manner." The affected agencies are to share the results of the annual inspection with other affected agencies. These inspections are to occur not sooner than 330 days or later than 390 days after the date on which the last annual inspection began and shall not exceed five days. A child welfare agency is allowed to contest the results of the annual inspection and may file an appeal within ten (10) days of receiving the inspection report.
- Adds several changes to the child abuse registry and what is to be reported, requiring "substantiated cases" to be reported that occur on and after July 1, 2016. It amends O.C.G.A. § 49-5-183 adding in (h) that if a minor child is alleged to have committed abuse, the Division is to remove the individual's name from the registry if he or she has reached 18 years of age; more than one year has passed from the date of the act or omission that resulted in a substantiated case and there have been no subsequent acts or omissions resulting in a substantiated case; and he or she can prove by a preponderance of the evidence that he or she has been rehabilitated.
- Adds in O.C.G.A. § 49-5-184(a) that an individual whose name appears in the child abuse registry as having committed a substantiated case is entitled to a hearing for an administrative determination of whether expungement of that individual's name should be restored. It also includes in O.C.G.A. § 49-5-185(b)(5) that a CASA program may

have access to this registry for the purposes of screening and selecting employees and volunteers.

Governor Deal signed HB 905 into law on May 3, 2016 as **Act Number 597**. It takes effect on July 1, 2016 except for the portion creating the scorecard, and that portion of the Act takes effect on March 1, 2017.

HB 962, by Rep. Stacey Abrams (D-Atlanta), requires that the Department of Human Services in O.C.G.A. § 49-2-1 have a kinship care enforcement administrator. It also defines a 'kinship caregiver' in O.C.G.A. 49-1-8 which means "a grandparent, aunt, uncle, great aunt, great uncle, cousin, sibling, or close family friend of a child who has assumed responsibility for raising such child in an informal, noncustodial, or guardianship capacity upon the parents of such child losing or abdicating the ability to care for or provide basic necessities for such child." It adds a new Code Section at O.C.G.A. § 49-4-158, addressing medical assistance of dependents of military service members (either in the armed forces or armed forces reserves of the United States or member in the Georgia National Guard). It requires that the Department of Human Services allow legal residents who are dependents of these military service members and who are absent from Georgia due to the member's military service be added to a database to indicate the need for medical assistance upon return to Georgia – thus, it holds their place in line for Medicaid waiver services. It further allows these dependents to be placed on waiting lists for their return to Georgia. There are requirements of the military member to supply information to the Department (copy of the military service member's DD-214 or other equivalent discharge paperwork and proof of the military service member's legal residence in Georgia, as prescribed by the Department). The legislation, when it passed the Senate, contained the language from SB 3 ("Strengthening and Supporting Families Act"); that language was stripped in the final passage as it was included in HB 887 above. Governor Deal signed HB 962 as **Act Number 409** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 1085, by Rep. Katie Dempsey (R-Rome), amends Chapter 6 of Title 49 and removes the community care services program (CCSP) from within the Department of Human Services and transfers that initiative to the Department of Community Health. Specifically, it requires that the Department of Community Health create a "community care unit" within the Division of Medical Assistance in O.C.G.A. § 49-6-62. The transfer is in keeping with the shift of funding made in the State's budget from the Department of Human Services to the Department of Community Health. The Department of Community Health already oversees the SOURCE program which is a similar initiative to help keep the elderly out of nursing homes and in their own homes and communities. Governor Deal signed this legislation as **Act Number 547** on May 3, 2016. This Act takes effect on July 1, 2016.

State Government

HB 676, by Rep. Buzz Brockway (R-Lawrenceville), creates the "Accountability, Change Management and Process Improvement Act of 2016." It adds in O.C.G.A. § 50-29-3(b) that all State agencies, boards, authorities and commissions of the executive branch of Georgia government are to provide a "written business case" for each information technology project

which exceeds one million dollars in value. This case statement, to be submitted 30 days prior to any request for State funding or issuance of procurement documents, is to contain, at minimum: a description for the need; a budget for the project; estimate of its operational impacts; scan of available options to meet the need; outline of the benefits and the time frame of the anticipated benefits; an analysis of risks of not acting and how the proposed solutions will mitigate those risks; and an assessment of business process improvement, the need for process improvement and corresponding change management. In subsection (c) of this Code Section, it requires these State entities to also provide for a "change management plan" and resources necessary for the plan's execution when projects exceed one million dollars in value and those projects directly involve two or more State agencies or service delivery changes in existing programs which would significantly change existing business processes. The minimum requirements of the "change management plan," to be submitted to the Governor's Office of Planning and Budget and Georgia Technology Authority, are outlined and are to incorporate: stakeholder analysis covering all impacted parties, groups, numbers of stakeholders impacted, type and degree of impact, and like areas and degree of resistance; change risk assessment; primary sponsors for the change program; change management program approach; and a change management work plan for communication, coaching, training, sponsorship and resistance management. Governor Deal signed this initiative as **Act Number 430** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 745, by Rep. Earl Ehrhart (R-Powder Springs), extends the sunset dates for provisions relating to the writing off of small amounts that are due to the State and non-lapsing revenue of institutions in the University System of Georgia and the Technical College System of Georgia. The sunset period is extended from June 30, 2016 to June 30, 2021 in O.C.G.A. § 50-16-18(b); O.C.G.A. § 20-3-86; and O.C.G.A. § 20-4-21.1. Governor Deal signed this measure as **Act Number 436** on April 26, 2016, and it took effect on June 15, 2016.

HB 773, by Rep. Penny Houston (R-Nashville), increases the current outstanding bond limit for the Georgia Housing Authority from $1.3 billion to $3 billion in O.C.G.A. § 50-26-10(i)(1) – this is for bonds and notes for its single-family residential housing program so that such aggregate amount may not exceed this new limit. Governor Deal signed this legislation as **Act Number 442** on April 26, 2016. This Act took effect upon signature of the Governor.

HB 976, by Rep. Bill Hitchens (R-Rincon), establishes in Chapter 18 of Title 50 minimum retention periods for video recordings which are gathered by cameras operated by law enforcement. Such cameras include body cameras and dash cameras located in an officer's vehicle. It specifically provides, in a new Code Section at O.C.G.A. § 50-18-96, for proper handling, copying and destruction of such recordings. The time to retain these recordings is set essentially at 30 months (if a part of a criminal investigation or will be used as evidence in pending litigation). Governor Deal signed this initiative as **Act Number 599** on May 3, 2016. This Act takes effect on July 1, 2016.

SB 168, by Sen. Burt Jones (R-Jackson), adds a new Code Section at O.C.G.A. § 50-3-87. The original legislation designated the Old Governor's Mansion, located in Milledgeville, as the official State historic house. However, the legislation was hijacked in the House by Rep.

Joe Wilkinson (R-Atlanta) and his bill, HB 561, on the State's adoptable dog was added after he stripped the underlying language, noting that Sen. Jones and his family favored the adoptable dog as the official state dog of Georgia. The Senate concurred with this change. Thus, this new Code Section recognizes the "adoptable dog" (any dog in the custody of any animal shelter, humane society, or public or private animal refuge that is available for adoption by the general public) as the designed official Georgia state dog. Governor Deal signed this bill into law as **Act Number 358** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 279, by Sen. Tyler Harper (R-Ocilla), amends O.C.G.A. § 35-8-3 and the composition of the Georgia Peace Officer Standards and Training Council. Currently, this Council is composed of 20 voting members and this change adds two additional members (the Commissioners from the Department of Juvenile Justice and Natural Resources or their designees). Governor Deal signed this initiative as **Act Number 372** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 307, by Sen. John Kennedy (R-Macon), amends O.C.G.A. § 32-6-51 and allows for multimedia display messages at bus shelters as long as they comply with existing operational standards for multiple message signs. 'Multiple media display' is defined as "a device by which the message, image, or text is capable of electronic alteration by movement or rotation of panels or slats." These messages will not be required to comply with spacing standards set in the same Code section. The House had added language concerning the towing of vehicles and the issuance of towing service provider permits (HB 973, the legislation by Rep. Christian Coomer (R-Cartersville)); however, that language was eliminated by the Senate in the legislation's final passage. Governor Deal signed this bill as **Act Number 340** on April 26, 2016, and it takes effect July 1, 2016.

SB 323, by Sen. Mike Dugan (R-Carrollton), addresses public disclosure of documents, in O.C.G.A. § 50-18-72(a)(46), relating to an economic development project by any agency as defined in O.C.G.A. § 50-14-1(a)(1)(A) – limiting that until the project is secured by binding commitment. A House amendment, by Rep. Earl Ehrhart (R-Powder Springs), adds in O.C.G.A. § 50-18-71(d.1) that a 90-business day response is required by the University of Georgia to respond to a request for records, other than the salary information for non-clerical staff, of intercollegiate sports programs of any unit of the University System of Georgia (including athletic departments and related private athletic associations). Governor Deal signed this bill as **Act Number 323** on April 11, 2016. This Act takes effect on July 1, 2016.

SB 327, by Sen. Judson Hill (R-Marietta), prohibits Georgia, in O.C.G.A. § 50-5-85, from entering into a contract with an individual or company if the contract is related to construction or the provision of services, supplies, or information technology unless it includes written certification that the individual or company is not currently engaging in, and agrees for the duration of the contract not to engage in, a boycott of Israel. This applies to contracts valued over $1,000. Governor Deal signed this bill into law as **Act Number 378** on April 26, 2016. This Act takes effect on July 1, 2016.

SB 383, by Sen. Frank Ginn (R-Danielsville), adds a new Code Section at O.C.G.A. § 32-6-75.4, regarding the regulation of signs and signals with the State highway system. It allows "agritourism facilities" to obtain permits for removing vegetation for a lawfully erected outdoor advertising sign promoting such facility as long as the sign is located on the premises of the facility and comports with local ordinances. As it passed out of the Senate originally, it was much broader and addressed the Roadside Beautification and Enhancement Council. Opposition was expressed by Sen. Renee Unterman (R-Buford), who said that the State's Garden Clubs believe it could allow for signs relating to prostitution. It was amended in the House to address "agritourism facilities." The original intent of the bill was purportedly to address a Mayfield Dairy billboard sign that was being blocked by vegetation. Governor Deal **vetoed** this initiative as **Veto Number 16** on May 3, 2016. In part, Governor Deal stated that he did not believe that it would be 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."

SB 388, by Rep. David Lucas (D-Atlanta), addresses bona fide coin operated amusement machines. In part, this legislation adds a new subsection (d) in O.C.G.A. § 50-27-74 addressing master licenses so that a master licensee is prohibited from assigning, selling, or otherwise transferring any of its contracts with location owners or location operators to any other master licensee or other person – this remains in effect unless or until a final decision, not subject to further appeal, is rendered which does not result in the revocation of the master license. After a master license is revoked by final order and no other appeals are available, contracts between a master licensee and a location owner or location operator for the providing of bona fide coin operated amusement machines are null and void. At O.C.G.A. § 50-27-78(h), it makes it illegal to remove or deface a sticker attached to a machine without authorization by the owner or the corporation; a violation of this is a misdemeanor. Governor Deal signed this initiative as **Act Number 572** on May 3, 2016. Changes in this legislation took effect upon signature of the Governor.

Tax

HB 51, by Rep. Tommy Benton (R-Jefferson), addresses redemption of property sold for taxes. It specifically amends O.C.G.A. § 48-4-40 so that "whenever any real property is sold under or by virtue of an execution issued for the collection of state, county, municipal, or school taxes or for special assessments, the defendant in *fi fa* or any person having any right, title, or interest in or lien upon such property may redeem the property from the sale by the payment of the amount required for redemption, as fixed and provided in Code Section 48-4-42: (1) at any time within 12 months from the date of the sale; and (2) at any time after the sale until the right to redeem is foreclosed by the giving of the notice provided for in Code Section 48-4-45." This change eliminates the current allowance for the payment of the redemption price. The legislation also amends O.C.G.A. § 48-4-42, permitting the amount to be paid for redemption of the property from any sale for taxes as provided in Chapter 4 "shall with respect to any sale made after July 1, 2002, be the amount paid for the property at the tax sale as shown by the recitals in the tax deed plus: (1) any taxes paid on the property by the purchaser after the sale for taxes; (2) any special assessments on the property; and (3) a

premium of 20 percent of the amount for the first year or fraction of a year which has elapsed between the date of the sale and the date on which the redemption payment is made and 10 percent for each year or fraction of a year thereafter." At subsection (c), it adds that with respect to sales made after July 1, 2016, "there shall be added to the sums set forth in subsections (a) and (b) of this Code Section any sums: (1) paid from the date of the tax sale to the date of redemption to a property owners' association, as defined in Code Section 44-3-221, in accordance with Code Section 44-3-232; (2) paid to a condominium association, as defined in Code Section 44-3-71, in accordance with Code Section 44-3-109; or (3) paid to a homeowner's association established by covenants restricting land to certain uses related to planned residential subdivisions." Governor Deal signed this legislation as **Act Number 600** on May 3, 2016. These revisions take effect on July 1, 2016.

HB 364, by Rep. David Knight (R-Griffin), addresses ad valorem taxation on property. It adds a new subsection (e) in O.C.G.A. § 48-5-342, regarding the review of county tax digests by the Commissioner of Revenue. It permits the Commissioner, upon his or her own initiative or upon complaint by a taxpayer, to examine the itemizations of properties appearing on the tax digest. If they appear to be there illegally, the Commissioner is required to strike such items from the digest and return the digest to the county for removal of the items and resubmission to the Commissioner. The Commissioner is to develop rules and regulations for this process and how the tax assessors may appeal the findings. If appealed by the board of tax assessors, the Commissioner, after looking over the appeal, is to issue a final order and include a finding as to the taxability of the digest items in dispute and finalize the digest. There are sanctions if property is found by the Commissioner to not be subject to taxation and it reappears at any time within five years of the initial determination of nontaxability and is again determined to be nontaxable. The Commissioner is to also notify the Department of Community Affairs of his or her findings and the "qualified local government status" of the county is to be revoked for a period of three years. Upon the revocation, the governing authority of the county is to remove immediately every member of the board of tax assessors and reappoint new members to serve the unexpired terms for those removed. The property owner (taxpayer) of the nontaxable property is entitled to file a petition with the Georgia Tax Tribunal for a refund of all taxes illegally collected or taxes paid, interest equal to the bank prime loan rate as posed by the Board of Governors of the Federal Reserve System in statistical release H.15 or any publication that may supersede it plus three percent calculated from the date of payment of such taxes and attorney's fees in an amount of not less than 15 percent nor more than 40 percent of the total of the illegally charged taxes and accrued interest. At O.C.G.A. § 50-13A-9(e), it gives the tax tribunals the jurisdiction over the refund petitions filed pursuant to O.C.G.A. § 48-5-342. Governor Deal signed Rep. Knight's legislation as **Act Number 393** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 408, by Rep. Wendell Willard (R-Sandy Springs), addresses the hotel-motel taxes on rooms, lodging and accommodations. It amends O.C.G.A. § 48-13-51(a)(5) adding at (C) that a municipality which is levying a tax a percentage of which is dedicated to financing a multipurpose domed stadium is authorized to expend in each fiscal year during which the tax is collected an amount equal to 39.3 percent of the total taxes collected at the rate of seven (7) percent toward funding any of the purposes permitted for tourism product development (which

means: the "expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include: (A) Lodging for the public for no longer than 30 consecutive days to the same customer; (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents; (C) Meeting, convention, exhibit, and public assembly facilities; (D) Sports stadiums, arenas, and complexes; (E) Golf courses associated with a resort development that are open to the general public on a contract or fee basis; (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways; (G) Amusement centers, amusement parks, theme parks, or amusement piers; (H) Hunting preserves, trapping preserves, or fishing preserves or lakes; (I) Visitor information and welcome centers; (J) Wayfinding signage; (K) Permanent, nonmigrating carnivals or fairs; (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing; (M) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools; (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens; (O) Parks, trails, and other recreational facilities; or (P) Performing arts facilities"). Funding cannot commence until (1) the municipality has terminated its obligations under O.C.G.A. § 48-13-51(a)(5(A)(ii); and (2) addressed "any outstanding obligation, which is incurred prior to January 1, 1991 issued to fund a multipurpose domed stadium and secured in whole or in part by a pledge of a tax which is authorized by this Code Section or any such obligation which is secured to refund such an obligation incurred before January 1, 1991." Governor Deal signed HB 408 into law as **Act Number 396** on April 26, 2016. This Act takes effect on July 1, 2016.

HB 726, by Rep. Kevin Tanner (R-Dawsonville), amends the excise tax provisions on tobacco products in O.C.G.A. § 48-11-2(f) so that if the dealer or distributor separately states the amount of any federal excise tax or shipping charges on the sales invoice for the tobacco product, such amount is not to be taxed pursuant to Chapter 11 of Title 48. Governor Deal **vetoed** this legislation on May 3, 2016 as **Veto Number 7**.

HB 742, by Rep. David Knight (R-Griffin), is the annual Tax Code update reflecting changes to federal law in Title 48. It also revises the time and place of filing returns and extensions at O.C.G.A. § 48-7-56. At (a), it requires returns of taxpayers other than corporations and partnerships be filed with the Commissioner on or before April 15 of each year except that, in the case of taxpayers using a fiscal year, the return is to be filed on or before the fifteenth day of the fourth month after the close of the fiscal year. Returns of corporations other than Georgia Subchapter "S" corporations made on the basis of a calendar year are to be filed on or before the fifteenth day of April (rather than March) following the close of the calendar year, and returns of corporations other than Georgia Subchapter "S" corporations made on the basis of a fiscal year are to be filed on or before the fifteenth day of the fourth month following the close of the fiscal year. Returns of Georgia Subchapter "S" corporations made on the basis of a calendar year are to be filed on or before the fifteenth day of March following the close of the calendar year, and returns of Georgia Subchapter "S" corporations made on the basis of a fiscal year are to be filed on or before the fifteenth day of the third month following the close

of the fiscal year. Returns of partnerships made on the basis of a calendar year are to be filed on or before the fifteenth day of March following the close of the calendar year, and returns of partnerships made on the basis of a fiscal year are to be filed on or before the fifteenth day of the third month following the close of the fiscal year. There are further changes concerning statements of wages paid and taxes withheld to employees, time and extensions which will now also apply to Form 1099s where Georgia withholding has occurred in O.C.G.A. § 48-7-105(a). This legislation was signed on February 23, 2016 and took effect on that date as **Act Number 313**.

HB 763, by Rep. Penny Houston (R-Nashville), extends the sales and use tax exemption for food and food ingredients sold to qualified food banks and for use of food and food ingredients which are donated to a qualified nonprofit agency when that food is used for hunger relief purposes. These changes are made in O.C.G.A. § 48-8-3(57.1)(A) and 57.2(A) respectively. Additionally, it requires in (57.1)(C) that a taxpayer seeking to claim the exemption in (57.1)(A) is to electronically submit to the Department of Revenue, at the time of application for the exemption and any such annual renewal, the total number of clients served in the previous calendar year, total pounds of food donated by retailers, and total amount of exempt purchases made in the preceding year. The Department is to generate a report for the House Committee on Ways and Means and the Senate Finance Committee with this information. Governor Deal signed this legislation into law as **Act Number 602** on May 3, 2016. The revisions in this Act, which specifically help the food banks across Georgia, take effect on July 1, 2016.

HB 769, by Rep. Lee Hawkins (R-Gainesville), permanently extends the ad valorem tax exemption for watercraft and all-terrain vehicles held in inventory for the purpose of sale or resale in O.C.G.A. § 48-5-504.40. Governor Deal signed this bill into law as **Act Number 527** on May 3, 2016. This legislation took effect upon the Governor's approval and applies to tax years beginning on and after January 1, 2017.

HB 802, by Rep. Sam Teasley (R-Marietta), addresses O.C.G.A. § 48-7-27(a)(11.1), revising the deduction from income for contributions to savings trust accounts established pursuant to Article 11 of Chapter 3 of Title 20. It alters the computation for taxable years beginning on or after January 1, 2016 (rather than January 1, 2007) and permits a contributor, filing a joint return, the sum of contributions constituting deductions on the contributor's return to not exceed $4,000.00 per beneficiary (rather than current law which is $2,000.00 per beneficiary). Governor Deal signed this measure as **Act Number 604** on May 3, 2016. This Act took effect upon approval by the Governor and applies to all taxable years beginning on and after January 1, 2016.

HB 822, by Rep. Christian Coomer (R-Cartersville), changes the definition of 'energy used in agriculture' by removing reference to the prepaid "state" tax at O.C.G.A. § 48-8-3.3(4). Governor Deal signed this change as **Act Number 453** on April 26, 2016. This legislation takes effect on July 1, 2016.

HB 862, by Rep. David Knight (R-Griffin), addresses provisions concerning disabled veterans. At O.C.G.A. § 40-2-69(a), it clarifies the definition of 'disabled veteran' so it has the same meaning as the term is defined in O.C.G.A. § 48-5-48(a)(1) (which is "any veteran who is a citizen and resident of this state who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as having a service related disability that renders such veteran as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to the individual unemployability or is entitled to receive a statutory award from the United States Department of Veterans Affairs for (A) loss or permanent loss of use of one or both feet; (B) loss or permanent loss of use of one or both hands; (C) loss of sight in one or both eyes; or (D) permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye"). It further clarifies the exemption from ad valorem taxation for motor vehicles owned or leased by a disabled veteran in O.C.G.A. § 48-5-478(a). Governor Deal signed HB 862 as **Act Number 595** on May 3, 2016. This legislation took effect upon signature of the Governor.

HB 922, by Rep. Bruce Williamson (R-Monroe), addresses the income tax credit for employers creating "quality jobs." The change in this legislation at O.C.G.A. § 48-7-40.17(a)(3) adds a definition for the term, 'taxpayer,' to mean any person "required by law to file a return or to pay taxes, except that any taxpayer may elect to consider the jobs within its disregarded entities, as defined in the Internal Revenue Code, for purposes of calculating the number of new quality jobs created by the taxpayer under this Code section." Governor Deal signed this bill into law as **Act Number 619** on May 3, 2016. The Act took effect upon the Governor's approval; it will apply to all taxable years beginning on or after January 1, 2016.

HB 935, by Rep. Brett Harrell (R-Lawrenceville), addresses ad valorem taxes and adds 'fulfillment centers' (defined at O.C.G.A. § 48-5-48.2(b)(4) as a "business location in Georgia which is used to pack, ship, store, or otherwise process tangible personal property sold by electronic, Internet, telephonic, or other remote means; provide that such a business location does not allow customers to purchase or receive goods onsite at such business location) so that the stock in trade of a fulfillment center is eligible for a freeport exemption (see O.C.G.A. § 48-5-48.2). Governor Deal signed this bill as **Act Number 539** on May 3, 2016. This Act takes effect on July 1, 2016.

HB 936, by Rep. Brett Harrell (R-Snellville), clarifies in Chapter 7 of Title 48 concerning wages which are necessary to qualify for a jobs tax credit. It amends O.C.G.A. § 48-7-40(e)(1) so the wage (rather than average wage) of each new job created must be above the average wage of the county that has the lowest average wage of any county in the State to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. It also addresses tax credits for business enterprises in less developed areas in O.C.G.A. § 48-7-40.1(a)(3) and defines 'new full-time employee job' as a "newly created position of employment that was not previously located in

this State, requires a minimum of 35 hours a week, and pays at or above the average wage earned in the county with the lowest average wage earned in this State, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor." Finally, it adds a new provision for tax credits for employers who hire parolees in O.C.G.A. § 48-7-40.31. The Section of the Act (Section 3), which provides for an employer who employs a qualified parolee in a full-time job for at least 40 weeks during a 12-month period, O.C.G.A. § 48-7-40.31, permits that employer an income tax credit in the amount of $2,500.00 for each qualified parolee so employed against the tax imposed in Article 2 of Chapter 7 during such 12 month-period. Credits will only be applicable to the employer who employs a parolee in a full-time job after January 1, 2017. Credits are capped at $50,000 per employer per taxable year; and an employer is only eligible to receive the credit once per individual. Section 3 applies to tax years starting on or after January 1, 2017. Governor Deal signed this proposal into law as **Act Number 480** on April 27, 2016. The Act otherwise takes effect on July 1, 2016.

HB 937, by Rep. Brett Harrell (R-Snellville), amends current law concerning exemptions from State sales and use taxation. Specifically, it amends O.C.G.A. § 48-8-3(93), extending the exemption for sales of tangible personal property used for and in the construction of a competitive project of regional significance so that such exemption will now sunset on June 30, 2019 rather than June 30, 2016. It also amends O.C.G.A. § 48-13-93(a)(4), concerning excise taxes on rental car charges, so that the tax levied shall terminate not later than December 31, 2047 (under current law, it is set to expire on December 31, 2038). Governor Deal signed HB 937 into law as **Act Number 596** on May 3, 2016. This Act takes effect on July 1, 2016.

HB 951, by Rep. Chad Nimmer (R-Blackshear), is a part of Governor Deal's legislative package. It addresses exemptions from sales and use taxes in O.C.G.A. § 48-8-3. It adds:

- In O.C.G.A. § 48-8-3(75)(A) an exemption from sales and use taxes on sales of "eligible property" for the period commencing at 12:01 AM on July 30, 2016 and concluding at 12:00 Midnight on July 31, 2016 (this is the Back to School Tax Holiday).
- In O.C.G.A. § 48-8-3(82)(A) an exemption from sales and use taxes on purchases of "Energy Star Qualified Products or WaterSense Products" which have a sales price of $1,500.00 or less when that product is purchased for non-commercial home or personal use. These purchases would be exempt when occurring during the period commencing at 12:01 AM on September 30, 2016, and concluding at 12:00 Midnight on October 2, 2016.
- In O.C.G.A. § 48-8-3(97) an exemption from sales and use taxes on sales of admissions to "nonrecurring major sporting events in this State expected to generate over $50 million in the host locality" – these would be events such as the National Football League (NFL) championship game, a semifinal game or championship game of a national collegiate tournament, a Major League Baseball, Major League Soccer or National Basketball Association all-star game or other nonrecurring major sporting event as determined by the commissioner of economic development and the State revenue commissions to be a "major sporting event." The General Assembly is also

provided oversight of this exemption, and can, by joint resolution, declare it null and void. This particular exemption is to be automatically repealed on December 31, 2022 – unless an application has been submitted prior to December 31, 2022 for the determination.

The exemption for the major sporting event caused a great deal of angst for several in the General Assembly. Many felt that the NFL is essentially holding the State 'hostage' and requiring it to implement this exemption before Atlanta will be considered as a host for a Super Bowl. However, the measure passed and takes effect on July 1, 2016 and will be applicable to admissions purchased on or after January 1, 2017 and will only apply to events secured on or after the effective date of the Act. Otherwise, the language governing the other exemptions in HB 951 takes effect on July 1, 2016. Governor Deal signed this legislation as **Act Number 327** on April 21, 2016.

HB 987, by Rep. Tom McCall (R-Elberton), adds nonprofit rodeos to the list of activities included under the Conservation Use Valuation Assessment (CUVA) program at O.C.G.A. § 48-5-7.4(p)(10). Governor Deal signed Rep. McCall's legislation as **Act Number 498** on April 28, 2016. This Act takes effect on July 1, 2016.

HB 991, by Rep. Bill Hitchens (R-Rincon), addresses property taxes that are due to counties by taxpayers who are military services personnel. It creates the "Returning Heroes Act" in O.C.G.A. § 48-5-243 so that a tax collector or tax commissioner is required to waive the collection of any amount due the taxing authorities for which taxes are collected when those amounts represent a penalty or an amount of interest assessed for the failure to comply with the laws governing the assessment and collection of those ad valorem taxes if that tax collector or tax commissioner determines that the default is due to the taxpayer's military service in the armed forces of the United States, in an area designated by the President of the United States by executive order as a combat zone and not due to gross or willful neglect or disregard of the law or of regulations/instructions and the taxpayer makes full payment of taxes owed, not including penalties and interest, within 60 days of that taxpayer's return from such military service. Governor Deal signed this bill as **Act Number 494** on April 28, 2016. This Act takes effect on July 1, 2016.

HB 1014, by Rep. Jay Powell (R-Camilla), is a tax credit revision for conservation easements and the donations of private property in O.C.G.A. § 48-7-29.12(d). It requires that, prior to the renewal of exemptions for donations of real property, the Department of Natural Resources is to provide a report to the Governor, President of the Senate, the Speaker of the House, and chairs of the House Ways and Means Committee and Senate Finance Committee on the activity of the program during preceding years (including the numbers of acres donated, the value of the donations, aggregate amounts of income tax credits granted, and listing of the direct and indirect benefits to the State due to the donation of the land for conservation purposes). Governor Deal signed HB 1014 as **Act Number 502** on April 28, 2016. This Act takes effect on July 1, 2016.

SB 258, by Sen. Fran Millar (R-Atlanta), contains several Tax Code revisions. It provides:

- That the assessed value following an appeal of a tax assessment can be decreased, but not increased. It amends O.C.G.A. § 48-5-299(c), concerning the ascertainment of taxable property and changing values established by certain appeal or agreement, so that "when the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and such valuation has been established as the result of an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to Code Section 48-5-311 or stipulated by written agreement signed by the board of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, unless otherwise agreed in writing by both parties" – with exceptions. It further addresses O.C.G.A. § 48-5-311(9) so that any real property tax appeal made on and after January 1, 2016, the assessed value being appealed may be lowered by the deciding body based upon the evidence presented but cannot be increased from the amount assessed by the county board of tax assessors.
- This legislation also allows an eligible disabled veteran to qualify for the homestead exemption at O.C.G.A. § 48-5-48(a)(1). The veteran must be a citizen and a resident of Georgia and discharged under honorable conditions and who has been adjudicated by the united States Department of Veterans Affairs as having a service-related disability that renders such veteran as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability or is entitled to receive a statutory award from the United States Department of Veterans Affairs for: loss or permanent loss of one or both feet; loss or permanent loss of use of one or both hands; loss of sight in one or both eyes; or permanent impairment of vision of both eyes (under certain conditions).
- It also exempts a disabled veteran from ad valorem taxation for motor vehicles owned or leased by that disabled veteran who is a citizen and resident of Georgia and he or she places a disabled motor vehicle license plate on such motor vehicle. See O.C.G.A. § 40-2-69(a).
- Finally, it provides for tax credits for contributions to "qualified rural hospital organization expenses." This portion of the legislation was the idea behind of what had been proposed by Rep. Geoff Duncan (R-Cumming) in HB 919, and to a large degree, promoted by Home Town Health and other hospitals. In the case of a single individual or head of household, a rural health care organization tax credit shall be for 70 percent of the actual amount expended or $2,500 per year, whichever is less. In the case of a married couple filing a joint return, the credit shall be for 70 percent of the actual amount expended, or $5,000 per year, whichever is less. In the case of a corporation, the credit shall not exceed 70 percent of the amount expended or 75 percent of the corporation's income tax liability, whichever is less. The tax credit cannot exceed a taxpayer's income tax liability. Credits can carry forward, but cannot be applied retroactively. It outlines in O.C.G.A. § 48-7-29.20 these requirements and at (e)(1) it establishes that in no event shall the credits for these qualified rural hospital organization expenses exceed $50 million in 2017; $60 million in 2018; and 70 million

in 2019. Further, no more than $4 million of the aggregate limit is to be contributed to any individual rural hospital organization in any taxable year. It requires that January 1 through June 30 of each year the Commissioner pre-approve contributions by individual taxpayers in an amount not to exceed $2 million and from corporate donors in an amount not to exceed $2 million. Should an individual, or corporate donor, desires to make a contribution to a rural hospital organization that has received the maximum amount of contributions for that taxable year, the Department of Community Health is to provide the individual, or corporate donor, with a list, ranked in order of financial need, of the rural hospital organizations still eligible to receive contributions for the taxable year. The rural hospital organization has the responsibility for notifying a taxpayer of the requirements to make a contribution; before making a contribution, the taxpayer is to electronically notify the department of the total amount of contribution the taxpayer intends to make to the rural hospital organization – the commissioner has 30 days to pre-approve or deny this. To claim the tax credit, the taxpayer is required to have a letter of confirmation of donation issued by the rural hospital organization, and that document is to be attached to the taxpayer's tax return (there are provisions for electronic filing of returns as well). No credit is permitted under this new Code Section with respect to any amount deducted from taxable net income as a "charitable contribution to a bona fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue Code." The legislation requires in O.C.G.A. § 31-8-9.1 that the Department of Community Health approve a list of rural hospital organizations (these include facilities located in a rural county, critical access hospitals; participates in Medicaid and Medicare and accepts both types of patients; provides health care services to indigent patients; has at least 10 percent of its annual net revenue categorized as indigent care, charity care, or bad debt; annually files an IRS Form 990; operated by a county or municipal authority or is designated as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code; and is current with all audits and reports required by law). There is an automatic repealer for O.C.G.A. § 49-7-29.20 of December 31, 2019.

Governor Deal signed this legislation on April 26, 2016 as **Act Number 345**. The provisions of SB 258 took effect upon signature of the Governor.

SB 350, by Sen. Jeff Mullis (R-Chickamauga), amends O.C.G.A. § 48-13-131 and adds a new subsection (b) to dedicate moneys collected from the excise tax on the sales of consumer fireworks, pursuant to a Constitutional Amendment. Such proceeds would be directed to be expended as follows: fifty-five (55) percent provided to the Georgia Trauma Care Network Commission; forty (40) percent provided to the Georgia Firefighter Standards and Training Council to be exclusively used for the implementation of a grant program to improve the equipping and training of firefighters and to improve the rating of fire departments by the Insurance Services Office; and five (5) percent is to be provided to local governments to be used solely for public safety purposes consisting of the operation of 9-1-1 systems (the commissioner is to include such amount as a part of the 9-1-1 distribution made on or before October 15 of each year to such local governments). Governor Deal approved this legislation as **Act Number 387** on April 26, 2016. This Act takes effect on January 1, 2017 if ratified at

the 2016 general election as an amendment to the Constitution of Georgia. SR 588, the Constitutional Amendment, amends Article III, Section IX, at Paragraph VI, if approved by voters and will permit this dedication of these excise taxes. Governor Deal signed SR 588 as **Act Number 530** on May 3, 2016. Voters now will need to pass this proposal in November before it becomes law in January.

SB 379, by Sen. Frank Ginn (R-Danielsville), addresses several Tax Code changes. It includes changes to provisions relating to the amount payable at redemption for land sold under tax executions in O.C.G.A. § 48-4-40 (permitting the defendant in *fi fa* or any person having any right, title or interest in or lien upon such property to redeem the property from the sale by the payment of the amount required for redemption as fixed and provided for in O.C.G.A. § 48-4-42 (1) at any time within 12 months from the date of the sale; and (2) at any time after the sale until the right to redeem is foreclosed by the giving of the notice provided for in O.C.G.A. § 48-4-45). It further amends O.C.G.A. § 48-4-42 and adds at (c) that sales made after July 1, 2016 will have added to the sums any sums "(1) paid from the date of the tax sale to the date of redemption to a property owners' association (as defined in O.C.G.A. § 44-3-221) in accordance with O.C.G.A. § 44-3-232; (2) paid to a condominium association, that is an association as defined in O.C.G.A. § 44-3-71, in accordance with O.C.G.A. § 44-3-109; or (3) paid to a homeowner's association established by covenants restricting land to certain uses related to planned residential subdivisions." It now requires in O.C.G.A. § 48-5C-1(c)(3)(A) that the tag agent of each county shall, within 20 days following the end of each calendar month, allocate and distribute to the water and sewerage authority for which the county has levied an ad valorem tax in accordance with a local constitutional amendment. It also adds a new sales and use tax exemption in O.C.G.A. § 48-8-3 so that beginning July 1, 2017 and ending June 30, 2020, the sales of tangible property and services to a qualified job training organization would be exempt, when such organization obtains an exemption determination letter from the Commissioner, (it does not apply to any local sales and use tax levied). This exemption helps, in particular, Goodwill Industries. It further requires any qualified job training organization, which is granted such exemption, to provide an annual report to the Department of Revenue (outlining such data as numbers of individuals trained in the program; number of individuals employed by the organization after receiving such training; and number of individuals employed in full-time positions outside the organization after such training). This report is to be shared with the House Committee on Ways and Means and the Senate Finance Committee before any renewal or extension of this exemption is considered. It also permits a sales and use tax exemption on sales made to "fire districts which have elected governing bodies and are supported by, in whole or in part, ad valorem taxes." Governor Deal signed this legislation as **Act Number 571** on May 3, 2016. This Act takes effect on July 1, 2016.

Torts

HB 59, by Rep. Wendell Willard (R-Sandy Springs), waives the defense of sovereign immunity for declaratory judgment or injunctive relief in O.C.G.A. § 50-21-50. Specifically, this legislation:

- Adds new language at O.C.G.A. § 50-21-50 and at (a) reads: "the defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party claim brought in the courts of this state by an aggrieved person seeking a declaratory judgment or injunctive relief against the State or any political subdivision thereof to remedy an injury in fact caused by the State or any political subdivision thereof acting without lawful authority and beyond the scope of official power in violation of a provision of the Georgia Constitution, a State law, or a local ordinance; provided, however, that sovereign immunity is not waived; (1) when a State law explicitly prohibits such waiver; (2) as to any claim for monetary relief, attorney's fees, or expenses of litigation that are included in or related to such claim, counterclaim, cross-claim, or third-party claim; (3) as to any claim, counterclaim, cross-claim, or third-party claim seeking a declaratory judgment or injunctive relief related to a contract between a third-party and the State or any political subdivision thereof; or (4) as to any claim, counterclaim, cross-claim, or third-party claim brought by, or on behalf of, an individual in a penal institution as such term is defined in Code Section 42-1-5 or individual in a State mental health facility as such term is defined in Code Section 37-1-1. (b) This Code Section shall not: (1) Be construed to alter or amend any other waiver of sovereign immunity provided by law; or (2) Apply to any claim, counterclaim, cross-claim, or third-party claim brought in the courts of the United States."
- Adds new Code Sections at O.C.G.A. § 23-3-45 and O.C.G.A. § 23-3-46, addressing *quia timet*.
- Amends O.C.G.A. § 36-33-1(c) so as to address a municipal corporation's immunity from liability for damages and the waiver of sovereign immunity by the purchase of liability insurance so that the defense of sovereign immunity of a municipal corporation is waived as provided in Code Section 50-21-50.

Governor Deal **vetoed** this legislation as **Veto Number 2** on May 3, 2016. In his message, he explained that the legislation would create 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." Such would "allow unprecedented judicial intervention into daily management decisions entrusted to the executive branch of government." Further, he said that HB 59 was to "legislatively address a recent judicial decision" but the waiver in this bill "is not sufficiently limited."

HB 920, by Rep. Trey Kelley (R-Cedartown), provides a protection for passive investors in nursing homes and intermediate care homes so that they will not be party to lawsuits involving instances where a suit is brought on behalf of a resident for injuries incurred or death of that resident. Specifically, it adds such protection at O.C.G.A. § 31-7-3.3 and defines 'excluded party' which is a "person or entity that neither performs, has the duty to perform, nor controls performance of any of the following functions at or on behalf of a nursing home or intermediate care home where alleged injuries occurred: (1) providing management, operation, or administrative services for such home; (2) hiring or firing of the administrator, director of nursing, or other staff working at such home; (3) setting or controlling the budget of such home; (4) staffing or determining the level of staff at such home; (5) providing direct care, treatment, or services to the residents of such home; (6) making decisions regarding the care,

treatment, or services provided to residents at such home; or (7) adopting, implementing, or enforcing the policies and procedures for such home." It also requires in O.C.G.A. § 31-7-3.4(b) that the nursing home or intermediate care facility carry or be covered by liability insurance in order to obtain and maintain a permit to operate. If such licensee fails to have liability insurance or establish or have established for its benefit a self-insurance trust for a nursing home claim, the Department is to provide the licensee notice of its noncompliance and allow that licensee 60 days in which to comply. Failure to maintain the coverage or establish such trust, shall then require that the Department: (A) revoke the licensee's permit; (B) deny any application to renew such permit; and (C) deny any application for a change of ownership of the nursing home or intermediate care home. Governor Deal approved this bill as **Act Number 476** on April 27, 2016. This Act takes effect on July 1, 2016 and applies to claims filed on or after that date.

Wills and Estates

HB 547, by Rep. Barry Fleming (R-Harlem), addresses a year's support for spouses in O.C.G.A. § 53-3-4. It clarifies that it is the "homestead" which is allowed. It adds in (b)(2) that in solvent and insolvent estates, "if the homestead is not claimed, all taxes and liens for taxes accrued for years prior to the year of the decedent's death against the real property set apart and against any equity of redemption applicable to the real property set apart shall be divested as if the entire title were included in the year's support. Additionally, as elected in the petition, property taxes accrued in the year of the decedent's death or in the year in which the petition for year's support is filed or, if the petition is filed in the year of the decedent's death, in the year following the filing of the petition shall be divested if the real property is set apart for year's support." The changes imposed take effect on July 1, 2016. Governor Deal signed this legislation as **Act Number 423** on April 26, 2016.