



**Georgia Bio Legislative Watch
Week: January 16, 2015
Nelson Mullins Riley & Scarborough LLP**

The Georgia General Assembly began the 2015 Legislative Session on Monday of this week. Here are the highlights from an eventful first week down at the Georgia State Capitol.

Inauguration: The inaugural ceremonies took place at 2:00 on Tuesday, despite wet weather conditions forcing the event to be moved from the newly built Liberty Plaza into the House Gallery. Governor Nathan Deal and Lt. Governor Casey Cagle were sworn in after a brief introduction by Speaker David Ralston. In his first act, Governor Deal gave the oath of office to all the Constitutional Officers: Attorney General Sam Olens, Commissioner of Agriculture Gary Black, State School Superintendent Richard Woods, Commissioner of Labor Mark Butler, Commissioner of Insurance Ralph Hudgens, and Secretary of State Brian Kemp.

In his inaugural speech, Governor Deal highlighted the positive affects which criminal justice reform has had on the state of Georgia, including the success of accountability courts, the expansion of education and job-readiness supports within the prison system, as well as the increased efforts to prevent recidivism amongst offenders. The Governor also touched on the success of the Charter School amendments throughout the State, accenting that he hoped to increase these opportunities for other schools over the course of time. He concluded with a push for further job creation and stated that while Georgia has accomplished much over the years, there is still much to be done.

State of the State Speech: Governor Deal gave a State-of-the-State address on Wednesday of this week. In his remarks, the Governor seemed optimistic about the current state of Georgia and proposed a number of new initiatives. He said that thousands of jobs are being added each month and that Georgia is still the number one place in the nation to do business. According to the Governor, "the state of our state is strong, and getting stronger every day".

The Governor then outlined four areas that will likely be his priorities for the coming term: Education, Health Care, Transportation and Public Safety, with an added emphasis on Education and Transportation initiatives.

Governor Deal stated that the "Rainy Day Fund" has increased by 643 percent since he took office, which is evidence that Georgia is better today than in previous years. Since the Governor took office, over 319,000 new private sector jobs have been added, with 93,000 of those coming in the past 12 months. With this new job growth comes greater population growth and Georgia is now the eighth most populous state in the nation. Governor Deal stated that this population growth is due to Georgia providing its citizens with greater opportunities.

Education

The biggest announcement the Governor made regarding education was that \$1 billion additional dollars will go towards funding K-12 education.

There were over 19,000 students who dropped out between grades nine and twelve in the last school year. To address how to make K-12 education more accessible, the Governor is establishing an "Education Reform Commission" to study and recommend potential improvements to him by August 1 of this year. A subset of this group will examine ways to modernize the QBE funding formula from the 1980s, which will hopefully go into effect as soon as the 2016-2017 school year. The Governor's vision is to create a formula driven by student need that gives local schools more control and flexibility.

The Governor then gave an update on the charter school amendment, which is making a positive difference. He also proposed a constitutional amendment to establish an "Opportunity School District" which authorizes the state to step in to help failing public schools. This plan is modeled after a similar plan used in New Orleans which has proved effective. He called on legislators to have this included as a referendum on the next ballot.

Public Safety

The Governor is proposing to create the Department of Community Supervision which will eliminate redundancy and enhance coordination among state agencies including the Department of Juvenile Justice, Corrections and DFCS.

Health Care

The State has seen huge growth in the number of child welfare investigations. The Child Welfare Reform Council has released its review of the Division of Family and Children Services and the Governor will address some of their recommendations in his budget. These recommendations include starting a mentor program for supervisors, providing greater career and salary growth potential, promoting safety for caseworkers, and improving training of foster parents.

Additionally, Governor Deal said he hopes to sign legislation that decriminalizes medical cannabis oil, though he made clear that he does not support legalizing cannabis for recreational purposes.

Transportation

The Governor spoke at length on the need for more transportation funding. Since only three regions in the state invested in Plan A (a regional 1% sales tax for certain infrastructure projects), the Governor said they acted to implement Plan B, which includes a focus on the most essential projects targeting the most congested areas. He said that \$1.1 billion dollars will be put towards creating new interstate lanes in Metro Atlanta, over the next four years.

He discussed the importance of the excise tax and how revenues have been falling over time, especially when accounting for inflation. One thing we could do, according to the Governor, is become less dependent on federal revenue for transportation projects, which would avoid the regulations and extra costs associated with those funds.

FY 2016 Budget: Governor Nathan Deal released his recommended budget earlier this morning, unlike that of previous years where the budget has been released with his State of the State Address. Recommendations include:

- \$17,498,793 in additional motor fuel funds for road and bridge projects based on anticipated collections and debt service savings, including \$5,922,309 for the I-285/GA 400 interchange project.
- \$172,768 in new state funds for 11 new residency slots in primary care specialties under DBHDD. In total, budget provides for 20 new residency slots for hospitals in Gwinnett and Clarke counties. Additionally, \$22.8 million increase for expenses associated with new Hepatitis C drugs and \$12.1 million for start-up expense associated with the implementation of a new voluntary case management program for the Aged, Blind and Disabled population.
- A decrease of \$5.8 million in Innovation and Technology under the Department of Economic Development and an increase of \$18,786 in small and minority business development.
- A 3 percent increase in awards for HOPE scholarships and grants as well as providing an additional \$6 million in low interest loans for students who have exhausted their scholarship and grant opportunities. Recommendations also include \$51.9 million for resident instruction and \$198 million in bonds for capital projects for the University System.

For the complete FY2016 Budget, please refer to the following link from OPB:
<http://opb.georgia.gov/governors-budget-reports>.

Budget Hearings: The Appropriations Economic Development Subcommittee will hold their FY15 supplemental budget hearings on Wednesday, January 21st at 10:30AM as well as Thursday, January 22nd at 8:00AM in room 506 of the Coverdell Legislative Office Building. The House and Senate Appropriations Health Subcommittee will hold their hearings on Thursday at 8:00AM in room 341 of the Georgia State Capitol. Additionally, the Appropriations Human Services Subcommittee and the Senate Appropriations Human Development Subcommittee will hold their hearing on Thursday at 9:00 in room 341 of the Capitol. The Governor will address Joint Appropriations Committees in 341 of the Capitol on Thursday, January 22nd at 12:30 PM

The General Assembly is in recess until Monday, January 26th at 10:00 AM

Bill	Description	Sponsor	Committees	Status	Analysis
<u>HB8</u>	A BILL to be entitled an Act to amend Chapter 4 of Title 34 of the Official Code of Georgia Annotated, relating to minimum wage, so as to provide	(1) Brooks, Tyrone 55th	HC:	Jan/14/2015 - House Second Readers	HB 8 – Rep. Tyrone Brooks (D-Atlanta) proposed this initiative to amend O.C.G.A. § 34-4-3 to provide for "substantive and comprehensive reform" of the provisions regarding the

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	<p>for a substantive and comprehensive reform of provisions regarding the minimum wage law; to provide for legislative findings; to provide for an increase in the minimum wage; to provide for annual minimum wage increases to match the rising cost of living; to provide a credit toward the minimum wage for employers of tipped workers; to eliminate various eligibility exemptions from the minimum wage; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.</p>				<p>minimum wage law. Among the proposals would include the requirement that employers pay all covered employees a minimum wage of not less than \$6.20 per hour for each hour worked (current law is \$5.15 per hour). There is also a "tip credit" for employers of employees who meet the eligibility requirements under the federal Fair Labor Standards Act, 29 U.S.C. Section 203(t), of up to 50 percent of the minimum wage. It also has exceptions where this chapter applies, like current law, and includes one for "any individual who is employed by a nonprofit child-caring institution or long-term care facility serving children or mentally disabled adults who are enrolled in such institution and reside in residential facilities of the institution, if such employee resides in such facilities, receives without cost board and lodging from such institution, and is compensated on a cash basis at an annual rate of not less than \$15,000.00 (current law places this amount at \$10,000.00).</p>
<p><u>HB9</u></p>	<p>A BILL to be entitled an Act to amend Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to general</p>	<p>(1) Brooks, Tyrone 55th</p>	<p>HC:</p>	<p>Jan/14/2015 - House Second Readers</p>	<p>HB 9 – Rep. Tyrone Brooks (D-Atlanta) authored this initiative adding a new Code Section at O.C.G.A. § 34-1-8, regarding labor and industrial relations, so that it</p>

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	<p>provisions relative to labor and industrial relations, so as to provide that it shall be unlawful for any employer to include on an application for employment a question inquiring whether the applicant has ever been arrested for, charged with, or convicted of any crime; to provide for exceptions; to provide that such information may be sought during the first interview with the applicant; to provide that the criminal history records of an applicant may be sought after the first interview with the applicant; to repeal conflicting laws; and for other purposes.</p>				<p>will be unlawful for any employer on an application for employment to question an applicant inquiring whether he or she has ever been arrested for, charged with, or convicted of any crime (except for law enforcement agency positions or other positions related to law enforcement agencies). Further, there are some additional exceptions including whether a federal or state law or regulation creates a mandatory or presumptive disqualification from employment based upon a person's conviction of one or more specified criminal offenses then the employer may include such a question or otherwise inquire if the applicant has been convicted of any such offenses; if a standard fidelity bond or an equivalent bond is required for the position and that person's conviction of one or more specified criminal offenses would disqualify the applicant from obtaining such bond then the employer may inquire; an employer may also ask if an applicant for information about his or her criminal convictions at the first interview or thereafter, in accordance with all applicable State and federal laws; and an employer may seek to obtain the criminal history records of any applicant per O.C.G.A. § 35-3-34 after the</p>

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					first interview of such applicant is conducted.
<u>HB10</u>	A BILL to be entitled an Act to amend Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of the uniform rules of the road, so as to provide that only hands-free telephone calls shall be conducted by a driver of a motor vehicle; to provide for exceptions; to provide for penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.	(1) Mayo, Rahn 84th	HC:	Jan/15/2015 - House Hopper	Rep. Rahn Mayo (D-Decatur) offered this bill, which proposes to revise O.C.G.A § 40-6-241 relating to the exercise of due care by drivers while operating a motor vehicle by adding subsection (a) to provide that only hands-free telephone calls shall be conducted by a driver of a motor vehicle unless (d) a person is calling during an emergency situation.
<u>HB34</u>	A BILL to be entitled an Act to amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to enact the "Georgia Right to Try Act"; to provide for investigational drugs, biological products, and devices for patients with advanced illnesses; to provide for a short title; to provide for legislative findings; to provide for definitions; to provide for eligibility criteria; to provide for written	(1) Dudgeon, Mike 25th	HC:	Jan/15/2015 - House Hopper	Rep. Mike Dudgeon (R-Johns Creek) authored this proposal which is titled the "Georgia Right to Try Act." It would amend Title 31 to add a new chapter (50) addressing investigational drugs, biological products, and devices for patients with advanced illnesses should be made available despite prior approval from the FDA. Written informed consent shall be required and should include a description of the product and treatments for the advanced illness which the patient suffers, as well as a description of the potential

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	<p>informed consent; to allow manufacturers to make such drugs available; to provide that health benefit coverage is not mandatory; to prohibit sanctions against a physician's license; to prohibit blocking access; to provide for statutory construction; to provide for related matters; to repeal conflicting laws; and for other purposes.</p>				<p>best and worst outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome, among others. Additionally, the Georgia Composite Medical Board shall not revoke, suspend, sanction, fail to renew, or take any action against a physician's license solely based on such physician's recommendation, prescription, or treatment of an eligible patient with an investigational drug, biological product, or device (O.C.G.A. § 31-50-8)</p>
<p><u>HB47</u></p>	<p>A BILL to be entitled an Act to amend Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing prescription drugs, so as to authorize certain refills of topical ophthalmic products under certain conditions; to provide for related matters; to repeal conflicting laws; and for other purposes.</p>	<p>(1) Cooper, Sharon 43rd</p>	<p>HC:</p>	<p>Jan/14/2015 - House First Readers</p>	<p>Rep. Sharon Cooper (R-Marietta) authored this proposal in O.C.G.A. § 26-4-80(f) relating to the dispensing of prescription drugs. It would authorize certain refills of topical ophthalmic products to prevent "unintended interruptions in drug therapy." Further, it states:</p> <ol style="list-style-type: none"> 1. A pharmacist shall be authorized, without obtaining subsequent authorization from the practitioner or obtaining a new prescription from the practitioner, to permit refills at 70 percent of the

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					<p>predicted days of use; and</p> <p>2. A physician shall be permitted to authorize refills earlier than 70 percent of the predicted days of use for patients who have continual difficulty with inadvertent wastage.</p> <p>The change, though, would "apply to refills purchased through retail pharmacies and mail order sources."</p>
<p><u>HB53</u></p>	<p>A BILL to be entitled an Act to amend Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical laboratories, so as to provide that a person consenting to the provision of medical or surgical care by a health care provider operates as consent for such provider to perform an HIV test; to provide for withdrawal of consent for an HIV test; to provide for related matters; to repeal conflicting laws; and for other purposes.</p>	<p>(1) Waites, Keisha 60th</p>	<p>HC:</p>	<p>Jan/14/2015 - House First Readers</p>	<p>Rep. Keisha Waites (D-Atlanta) has proposed changes to O.C.G.A. § 31-22-9.2 regarding a person's consent to the provision of medical or surgical care by a healthcare provider and the consent that such provider can perform an HIV test. It would also require that unless exempted, a person, at his or her own election, "may withdraw consent and refuse an HIV test; provided, however, that such withdrawal of consent and refusal is made at the time of each instance where any body fluid that could be used for an HIV test are withdrawn from such person's body and, provided further, that such health care provider shall render counseling to such person at the time of such person's withdrawal of consent and</p>

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					<p>refusal." It does leave in place that such provisions will not apply to emergency or life-threatening situations or if the person is required to submit to an HIV test pursuant to O.C.G.A. § 15-11-603, O.C.G.A. § 17-10-15, O.C.G.A. § 31-17-4.2, O.C.G.A. § 31-17A-3, O.C.G.A. § 42-5-52.1 or O.C.G.A. § 42-9-42.1.</p>
<p><u>SB15</u></p>	<p>A BILL to be entitled an Act to amend Chapter 4 of Title 34 of the Official Code of Georgia Annotated, relating to minimum wage, so as to provide for a substantive and comprehensive reform of provisions regarding the minimum wage law; to provide for an increase in the minimum wage; to provide for annual minimum wage increases to match the rising cost of living; to provide a credit toward the minimum wage for employers of tipped workers; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.</p>	<p>(1) James, Donzella 35th</p>	<p>SC:</p>	<p>Jan/12/2015 - Senate Hopper</p>	<p>SB 15 – Sen. Donzella James (D-Atlanta) offered this change to O.C.G.A. § 34-4-3 to raise the minimum wage for covered employees from not less than \$5.15 to \$10.10 per hour for each hour worked and to provide that the annual minimum wage increase to match the rising cost of living. In subsection (b), it provides employers of employees who meet the eligibility requirements for the "tip credit" under the federal Fair Labor Standards Act, 29 U.S.C. Section 2023(t), to credit tips towards satisfaction of up to 50 percent of the minimum wage.</p>

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<u>SB19</u>	<p>A BILL to be entitled an Act to amend Code Section 34-8-35 of the Official Code of Georgia Annotated, relating to the definition of employment applicable to the "Employment Security Law," so as to change certain provisions of such definition in order to provide that services performed by an individual for wages shall be deemed to be employment unless the Department of Labor makes a contrary determination based upon evidence submitted of certain factors demonstrating that such individual has been and will continue to be free from control or direction over the performance of such services; to provide for related matters; to repeal conflicting laws; and for other purposes.</p>	(1) Orrock, Nan 36th	SC:	Jan/12/2015 - Senate Hopper	<p>SB 19 – Sen. Nan Orrock (D-Atlanta) authored this initiative amending the definition of employment applicable to the "Employment Security Law" found at O.C.G.A. § 34-8-35(f). It would allow that services performed by an individual for wages shall be deemed to be employment "subject to this chapter unless and until it is shown that such individual has been and will continue to be free from control or direction over the performance of such services both under the individual's contract of services and in fact, as demonstrated by evidence timely submitted to the department upon which department determines" various factors of that individual's performance (e.g. is not prohibited from working for other companies or holding other employment contemporaneously; is not prescribed minimum hours to work, or, in the case of sales, does not have a minimum number of orders to be obtained; receives only minimal instructions and no direct oversight or supervision regarding services to be performed; etc.).</p>