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## Legislators Must Protect Students’ Constitutional Rights

In November 180 representatives and 56 senators were elected to the 2019-2020 two-year term in the General Assembly. Reelected incumbents know which hot-button issues they’ll face, but legislative freshmen and incumbents need information about emerging problems.

**ACTION** – Explain the following issue to your senators and representatives and ask them to pass a law to protect the privacy rights of students whose rights are being superseded by educational guidelines and policies.

### “Gender Fluid” Boy Assaults Girl inside Decatur School Restroom for Girls

A very serious issue surfaced two years ago in July, when the superintendent of Decatur City Schools, arbitrarily, without notice to parents, students, the community or the school board, used email to inform teachers and staff of the new transgender policy he was establishing in all nine Decatur City Schools.

On July 26, 2016 Decatur City Schools Superintendent David Dude sent a memo to his staff requiring implementation of radically new transgender guidelines, printed verbatim as follows:

#### Decatur City Schools Transgender Policy

*Memo from Superintendent David Dude*

“To be clear, here are some examples of situations related to gender identity and how **I expect them to be handled in compliance with this policy.** For purpose of these examples, assume this student was **assigned the sex of male at birth** and now **identifies as female.**”

- This student should be treated the same as any other female student.
- She should not be identified as anything other than female.
- She should be allowed to use the female restroom.
- She should be allowed to use the female locker room.
- She should be allowed to try out for ‘female’ sports.
- She should be allowed to room with other females on field trips.”

Parents were not consulted or notified about the change, but six months later learned on Facebook that transgender rights take precedence over other students’ rights in Decatur schools. Despite wide-spread opposition, the superintendent audaciously doubled-down on his policy, ignoring President Trump’s rescission of such guidelines weeks before that memo was sent.

**A horrible result:** In November 2017 a “gender fluid” boy assaulted a five-year-old girl in the Oakhurst Elementary School restroom for girls. The next morning, the girl’s mom complained to school officials, but the policy was not removed, replaced or modified.

**The transgender policy prevailed.** (a) The “gender fluid” boy continued using the same restroom the assaulted girl used. (b) The district refused to move either child to another classroom. (c) Finally, the mother transferred her daughter to another school.

**Lawsuit prompts investigation:** Since Decatur City Schools receive federal funds an Alliance Defending Freedom attorney filed a 16-page complaint under the Federal Title IX law on May 22, 2018. In September the U.S. Department of Education Office for Civil Rights responded by opening a Title IX investigation, which is on-going.

## Republicans Retain Majority in Georgia Legislature

On November 6<sup>th</sup> Georgians elected a new crop of legislators who will take the oath of office when the next General Assembly convenes January 14, 2019 for 40 days, as required by the *Constitution of the State of Georgia*. But those 40 days, usually, stretch into March or early April, depending on the number of days recessed for committee meetings and holidays.

Although the General Election was weeks ago, the final outcome will not be available until after the run-off election, when voters will elect Georgia's next secretary of state, the District 3<sup>1</sup> member of the Public Service Commission and a representative for House District 28. The secretary of state is elected at the same time and holds office for the same term as the governor. However, the five public service commissioners are elected in staggered-years to serve six-year terms and take office December 31<sup>st</sup> in the year they are elected.

According to statistics available at this writing, the 2019 Georgia House of Representatives will be comprised of 105 Republicans<sup>2</sup> and 71 Democrats<sup>3</sup>. Republicans lost several seats.

The Georgia Senate will have 35 Republicans<sup>4</sup> and 21 Democrats<sup>5</sup> for the 2019 session.

Before the election, Georgia's congressional delegation included four Democrats and ten Republicans. However, Democrat voters defeated Republican Karen Handel in congressional District 6. That increased the number of Democrats in the delegation to five and reduced the number of Republicans to nine. After a recount was conducted in his very tight race, incumbent congressman Republican Rob Woodall retained his seat in District 7 with 50.1 percent of the vote.

### **Passed: Five Proposed Constitutional Amendments and Both Referendum Questions**

**Amendment 1** authorizes up to 80 percent of sales tax collected on future sales of sporting goods to be used for land conservation.

**Amendment 2** authorizes the creation of a state-wide business court whose judges will be appointed and reappointed by the governor.

**Amendment 3** changes the method of assessing and taxing forest land conservation property and requires each tract to be at least 200 acres located over one or two counties.

**Amendment 4** authorizes crime victims to request notification when the defendant in the case is released or escapes, and assures victims the right to speak at scheduled proceedings.

**Amendment 5** authorizes certain school districts to direct full-time equivalent funding to the school attended by the student.

**Statewide Referendum A** provides homestead exemption to residents in municipal corporations located in more than one county.

**Statewide Referendum B** gives tax exemptions on certain nonprofit homes for mentally disabled individuals.

<sup>1</sup> PSC District 3 encompasses Fulton, DeKalb, Clayton, and Rockdale counties.

<sup>2</sup> **2019 House: Speaker** David Ralston, **Speaker Pro Tem** Jan Jones; **Majority Leader** Jon Burns; **Majority Whip** Trey Kelley; **Majority Caucus Ch.** Matt Hatchett; **Caucus V Ch.** Micah Gravley; **Caucus Sec./Treas.** Bruce Williamson

<sup>3</sup> **House Minority Leader** Robert Trammell; **Minority Whip** Carolyn Hugley; **Minority Caucus Chairman** James Beverly; **Caucus V-Ch.** Erica Thomas; **Caucus Secretary** Pat Gardner; **Caucus Treasurer** Kimberly Alexander

<sup>4</sup> **2019 Senate: Lt. Gov.** Geoff Duncan; **President Pro Tem** Butch Miller; **Majority Leader** Mike Dugan; **Majority Whip** Steve Gooch; **Majority Ch.** John Kennedy; **Majority V-Ch.** Larry Walker; **Majority Secretary** John Wilkinson

<sup>5</sup> **Senate Minority Leader** Steve Henson; **Minority Whip**, Harold Jones, II; **Minority Caucus Chairman** Gloria Butler; **Caucus V-Ch.** Emanuel Jones; **Caucus Secretary** Nan Orrock

## Pre-filed Legislation for the 2019 Session

On November 6<sup>th</sup> Georgians elected a new crop of legislators who will take the oath of office when the next General Assembly convenes January 14, 2019 for a 40-day session, as required by the *Constitution of the State of Georgia*. However, those 40 days may stretch into March or early April, depending on how often they recess for committee meetings and holidays.

Legislators are authorized to pre-file legislation beginning on November 15<sup>th</sup> every year. On that date *this year* one house bill and three house resolutions were pre-filed and on November 16<sup>th</sup>, six more house bills were pre-filed. So far, the only pre-filed senate bill was on November 19<sup>th</sup>.

Although each pre-filed bill is assigned a permanent number, it will not be handled in the legislature, until its official introduction during the session. Officially introduced legislation is assigned to committee, based on subject matter. Legislation that passes committee is eligible for floor votes in the House or Senate.

### Senate Pre-filed Bills

**S.B. 1** would clarify a cross-reference concerning suspensions of driver's licenses and penalize hit-and-run drivers whose accidents cause serious injury.

### House Pre-filed Bills

**H.B. 1** would change the name of the scholarship program for needy students.

**H.B. 2** would amend rules for hand-gun carry in certain places.

**H.B. 3** would repeal a Code Section requiring innkeepers to pay more taxes.

**H.B. 4** would change the process for voting on the budget.

**H.B. 5** would prohibit employers from relying on salary history data when hiring job applicants.

**H.B. 6** would rewrite part of the law governing primaries and general elections.

**H.B. 7** would affect military service retirement income.

In addition, representatives have pre-filed other legislation called "resolutions." Bills may *become law*, but resolutions *do not become law*. Resolutions may (a) propose amendments to the state or federal constitution or (b) honor people, places and things or (c) declare special days or observances. Although resolutions may result in important changes to state and federal constitutions, resolutions *do not* become law.

**H.R. 1** would authorize the forthcoming new state appellate judicial complex to be named "Nathan Deal Judicial Center."

**H.R. 2** proposes that Georgia ratify a new amendment to the U.S. Constitution to prohibit poll taxes. However, this legislation is only symbolic. It would not affect the U.S. Constitution. The intent is to add Georgia to the list of states that originally ratified the amendment to protect the right of citizens to vote without paying a tax to do so.

**H.R. 3** has been reserved, but no additional information is available.

**H.R. 4** proposes ratification of an amendment to the U.S. Constitution to repeal the 18<sup>th</sup> amendment regarding prohibition, although it was repealed in 1933 by ratification of the 21<sup>st</sup> Amendment. The *Constitution of the United States* would not be affected by passage of H.R. 4. Passage of H.R. 4 would list Georgia among states that voted to repeal the 18<sup>th</sup> Amendment.

## December 7<sup>th</sup> Deadline for Run-off Absentee Ballots

*“Pursuant to a Consent Order entered by U.S. District Judge Amy Totenberg, any absentee ballot for the December 4, 2018 runoff that is postmarked on or before December 4, 2018 and received by the county elections office on or before Friday, December 7, 2018 and is otherwise valid, shall be accepted.”*

– Robyn Crittenden, Interim Georgia Secretary of State

**Generally**, under Georgia law, absentee ballots must be received by Election Day in order to be counted. However, extenuating circumstances prompted the Secretary of State’s office to agree that counties must accept otherwise valid absentee run-off ballots, if they are postmarked by December 4, 2018 and received by the county elections office no later than December 7, 2018.

That extension was granted because certification of the November 6, 2018 election was delayed by a federal court order. However, Georgia law requiring absentee ballots to be received by Election Day remains in effect for future elections.

Although the run-off Election was December 4<sup>th</sup>, final votes will not be available at the end of that day. The total number of valid absentee ballots that meet the above criteria will be added to the number of votes cast December 4<sup>th</sup>.

**Run-off rules:** (a) Early voting for the run-off began November 26<sup>th</sup>. (b) Absentee ballots for the run-off had to be requested no later than November 30<sup>th</sup>, then (c) completed and returned by December 7<sup>th</sup>.

### Races To be Decided December 4<sup>th</sup>

1. After the run-off, Georgia’s secretary of state will be either

- (a) Republican Brad Raffensperger who received 49.1 percent of the November 6<sup>th</sup> vote, or
- (b) Democrat John Barrow, the Democrat who got 48.7 percent.

After Brian Kemp resigned from that position on November 8<sup>th</sup>, Governor Deal appointed Georgia Department of Human Services Commissioner Robyn Crittenden to serve as interim secretary of state until the new secretary takes office in January.

2. Run-off election voters will decide who represents PSC District 3 – (a) incumbent Republican Public Service Commissioner Chuck Eaton or (b) Democrat Lindy Miller.

3. Voters in a court-ordered do-over election will determine who will be the representative for House District 28 because several incorrect ballots were voted in the May Primary Election.

### Special Session Provided Relief for \$2.5 Billion Hurricane Loss

**Item 1, Special Session** amended the FY 2019 budget to provide roughly \$270 million in emergency funding for state agencies and local governments in areas most heavily impacted by Hurricane Michael. The appropriation is expected to be used for debris removal, street repair, and other emergency expenditures, including overtime for state and local government staff. This year’s excess tax money may fund immediate disaster relief, as well.

**Item 2, Special Session** created a tax credit for certain taxpayers within Southwest Georgia’s timber industry that experienced significant unexpected expenses due to Hurricane Michael.

**Item 3, Special Session** ratified Governor Deal’s executive order from July 30, 2018, and suspended through the end of FY 2019 collection of the state’s four percent sales and use tax on jet fuel. It restores an exemption all airlines had enjoyed, until its withdrawal in 2018. While all airlines benefit from the lower tax, Delta may save as much as \$50 million annually.

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