



Legislative Update 2/18/11

The week ending February 18, 2011, included new legislation, more meetings and more committee hearings. We have now completed 16 out of 40 legislative days and will have completed legislative day 19 at the end of this week. MBAG had a very successful MBAG Day at the state capitol this past Wednesday, February 16. Thank you to all who attended! The following is a brief recap of last week's activity in the Georgia General Assembly.

Due to the current economy, major cuts to the HOPE scholarship and the state's pre-kindergarten program will be introduced soon as Gov. Nathan Deal and top lawmakers release their plan for shoring up the popular lottery-funded programs. HOPE scholarships will cover only about 90 percent of tuition instead of the full amount and will not escalate with rising cost, according to the plan, which has not been made public. The governor also is expected to recommend shortening the pre-k day by two-and-a-half hours, while increasing the number of available slots.

Meanwhile, the state's most violent felons could soon be identified as such on their driver's licenses and other state ID cards. The House of Representatives postponed a scheduled vote last Thursday until this week on House Bill 91. It calls for marking state identification with a number or letter to show to law enforcement that the person has been convicted of the state's seven violent felonies: murder, kidnapping, rape, armed robbery, aggravated sodomy, aggravated child molestation or aggravated sexual battery. The mark stays on the ID only as long as the person is on probation or parole. When that ends, the person can apply for a traditional license or ID card.

Legislation was proposed last week that would create a parole board for juvenile offenders. Senate Bill 105 would establish a three-person panel to establish rules and guidelines for paroling felons. Sen. Emanuel Jones, D-Decatur, the sponsor of the bill, explained that convicted juveniles do not have a parole system now, and that he hoped the state would create a rehabilitation program as an alternative to incarceration. Putting a juvenile in a detention center costs more than \$200 a day, Jones said. Georgia has the fourth-highest incarceration rate in the United States, costing taxpayers \$1 billion a year. Gov. Nathan Deal has proposed cutting incarceration rates by creating drug courts and other alternatives to prison.

A bill introduced last week in the General Assembly to allow construction of reservoirs by public-private partnerships drew immediate praise from business leaders nervous about a looming water deadline. Senate Natural Resources Committee Chairman Ross Tolleson, R-Perry, who sponsored the bill, said it gives financially struggling local governments another way to get water projects moving. "What we've done is set the stage for a lot of projects that are going to be done around this state for 25 years," he said. "We need every potential tool of financing that we can get." With the metro area looking at the possible loss of Lake Lanier as a drinking water source, the Georgia and metro Atlanta chambers of commerce immediately backed the bill. Brock, chairman of the Metro Atlanta Chamber, tied the bill to Gov. Nathan Deal's plans to jump-start regional reservoir development.

Illegal immigrants, motorists who stop to pick up day laborers, and government officials who “restrict” the enforcement of federal immigration laws could face punishment under a new bill a Republican state senator introduced last week. Senate Bill 104 also would allow warrantless arrests of people when police have probable cause to believe they have committed “any public offenses” that make them eligible for deportation. The language in Sen. Jeff Mullis’ bill mirrors much of what is already in legislation now pending in the Statehouse, including House Bill 87 and Senate Bill 40. And it includes provisions similar to those in Arizona’s tough new laws aimed at illegal immigrants.

Illegal immigrants would no longer be able to attend any Georgia public college under a bill the House Higher Education Committee passed last Tuesday. Such students currently can enroll, provided they pay out-of-state tuition. But House Bill 59 would bar these students from attending any of the 35 institutions in the University System of Georgia or the 26 in the Technical College System of Georgia. Rep. Tom Rice, R-Norcross, who wrote the bill, said it would guarantee illegal immigrants don't take seats away from students who are legally in the country. If it becomes a law, and there are several more steps before that would happen, students’ names would be run through a federal database -- Systematic Alien Verification for Entitlement (SAVE) -- to make sure they have a legal presence in this country. "I believe that this bill is needed," Rice said. "There's no way of knowing ... whose spot an illegal person may be taking. That's the issue. Should somebody really be here to take the spot of somebody who is here legally?"

Sen. John Albers, R-Roswell, and others introduced a bill in the state Senate last Tuesday that would end toll collections on Ga. 400. Senate Bill 97 says that the state would not be able to collect tolls on a project that no longer is paying off debt or interest. Any extension of tolls would have to be approved by joint resolution of the State Road and Tollway Authority and the General Assembly.

Below you will find an updated list of bills that affect our industry. There are a very large number of bills that have been, and will be, introduced that affect MBAG’s members and our industry in a wide variety of areas. As always, please do not hesitate to call us if you have any question/comments.

HR 2: Eminent domain; taking private property; prohibit
Sponsored by Rep. Bobby Franklin

This bill proposes an amendment to the Constitution of the State of Georgia so as to prohibit the taking of private property through eminent domain. Also provide for submission of this amendment for ratification or rejection. This resolution is in the Judiciary Committee and was read for the second time before the House on 1/24/11.

HR 3: Property; zoning laws; prohibit
Sponsored by Rep. Bobby Franklin

This bill proposes an amendment to the Constitution so as to provide that no restrictions shall be placed by any government or governmental entity on the use of property within this state. Also provides that land use and zoning laws, ordinances, and resolutions shall be prohibited. This resolution was read for the second time before the House on 1/24/11.

HB 30: Contracts; Illegal or void; Repeal certain code sections
Sponsored by Rep. Wendell Willard

In its current form, this bill will, among other things, repeal Code Section 13-8-2.1, relating to contracts in partial restraint of trade, change provisions relating to contracts contravening public policy, repeal Article 4 of Chapter 8 of Title 13, relating to restrictive covenants in contracts, and to provide for the enforcement of contracts that restrict or prohibit competition in certain commercial agreements. Currently, this bill is in the House Rules Committee.

**HB 66: Insurance; certificate of insurance forms approved by commissioner
Sponsored by Rep. Howard Maxwell**

This bill relates generally to insurance, so as to provide for certificate of insurance forms to be approved by the commissioner. It is now in the House Rules Committee.

**HB 93: Code enforcement boards; code enforcement officers; change definition
Sponsored by Rep. Tom Taylor**

A bill relating to local government code enforcement boards created on or after January 1, 2003, so as to change a definition for purposes of said article; to change certain references to "code inspectors" to "code enforcement officers" in said article. The bill has passed the Judiciary Committee and is currently in the House Rules Committee.

**HB 102: Civil actions; conservation easement property; provide limitation
Sponsored by Rep. Doug McKillip**

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to specific periods of limitations of actions, so as to provide a limitation period with respect to actions for title by prescription or private way by prescription to real property that is subject to a recorded conservation easement. The bill was read for a second time before the House on 2/1/11 and has been assigned to the House Judiciary Committee.

**HB 110: Mortgages and liens; vacant property registry; provisions
Sponsored by Rep. Mike Jacobs**

This bill relates generally to mortgages, conveyances to secure debt, and liens, so as to provide for a vacant property registry. The bill was read a second time before the House and has been referred to the House Judiciary Committee.

**HB 117: Withholding tax; person listed on closing statement subject to requirements
Sponsored by Rep. Rick Crawford**

This bill relates to withholding tax on sale or transfer of real property and associated tangible personal property by nonresidents, so as to provide that the person listed on the closing statement as the seller shall be treated as the seller and shall be subject to the withholding and documentation requirements. The bill was read for a second time on 2/2/11 and has been assigned to the House Ways & Means Committee.

HB 129: Conveyances; future conveyance of real property; prohibit fee

Sponsored by Rep. Doug McKillip

This bill relates generally to mortgages, conveyances to secure debt, and liens, so as to prohibit a fee for a future conveyance of real property except under limited circumstances. The bill is now in the House Rules Committee.

**HB 170: Tax executions; issuance; change certain provisions
Sponsored by Rep. David Knight**

This bill relates to tax executions, so as to change certain provisions regarding issuance of tax executions. It has been referred to the House Ways & Means Committee.

**HB 198: Superior court clerks; real estate or personal property filing fees; extend sunset dates
Sponsored by Rep. Tom Rice**

This bill relates to clerks of superior courts, so as to extend sunset dates for real estate or personal property filing fees, the state-wide uniform automated information system, and the collection and remittance of real estate or personal property filing. It has been referred to the House Judiciary Committee.

**HB 204: Protecting Georgia Homeowners Act of 2011
Sponsored by Rep. Billy Mitchell**

This bill's intention is to provide for homeowner relief from unfair practices related to foreclosure and foreclosure rescue schemes. It has been placed in the House Judiciary Committee.

**HB 209: Foreclosure sales; county list properties advertised in alphabetical or numerical order
Sponsored by Rep. Terry Johnson**

This bill relates to sales made on foreclosure under power of sale, manner of advertisement, and conduct necessary for validity, so as to provide that the official organ of each county shall list the addresses of property advertised for non-judicial foreclosure each week in alphabetical or numerical order. The bill is currently in the House Judiciary Committee.

**HB 210: Taxation of intangibles; real estate transfer tax; change certain provisions
Sponsored by Rep. David Knight**

This bill relates to taxation of intangibles, so as to change certain provisions regarding the real estate transfer tax. The bill is currently in the House Ways & Means Committee.

**HB 237: Residential mortgage fraud; mortgage lending process
Sponsored by Rep. Rich Golick**

This bill relates to residential mortgage fraud, so as revise the definition of "mortgage lending process"; to provide for investigative and subpoena powers of district attorneys and the Attorney General relative to residential mortgage fraud. It is currently in the House Judiciary (Non-civil) Committee.

HB 239: Financial institutions; provide for definitions
Sponsored by Rep. Greg Morris

This bill relates to financial institutions, so as to provide for definitions; to provide the Department of Banking and Finance the power to require dissolution of a financial institution; to provide for the effect of failure to maintain five members on a board of directors; to provide for service on a credit committee by a director of a credit union in certain cases; to provide for the payment of a P.O.D. account to an incorporated entity; to provide for penalties for making false statements; to provide that certain attorneys must be licensed to practice law in Georgia; to provide for related matters; to repeal conflicting laws. The bill is currently in the House Banks & Banking Committee.